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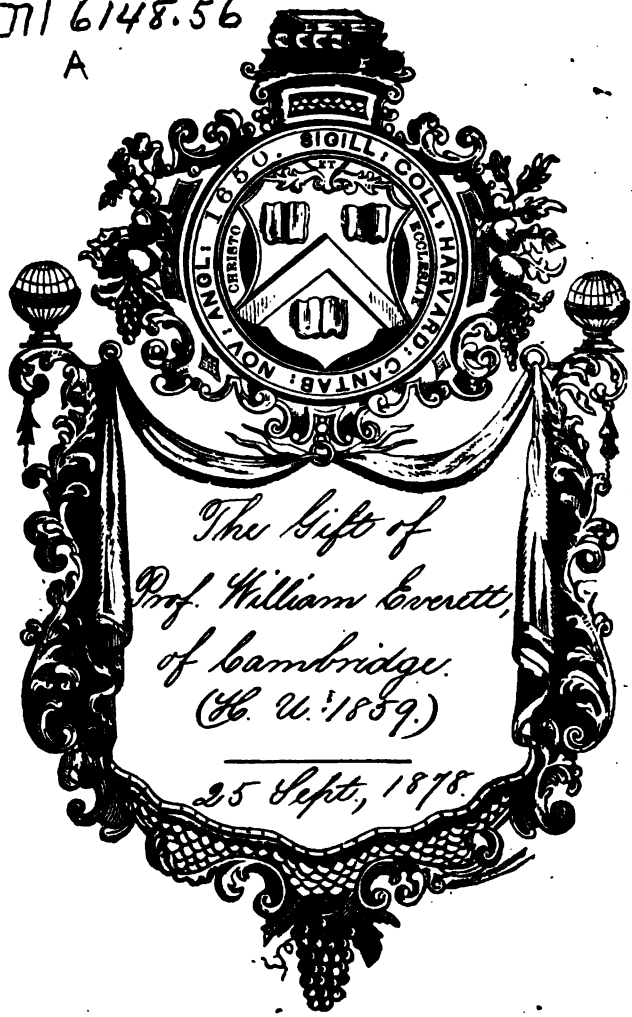

The Gift of
Prof. William Everett,
of Cambridge.
(H. U. 1859.)

25 Sept., 1878.

Hon. Edward Everett.
with the best regards
of E. J. Abbot
Jan. 1. 1857.

THE

UNITED STATES CONSULAR SYSTEM:

A

MANUAL FOR CONSULS,

AND ALSO FOR

MERCHANTS, SHIPOWNERS AND MASTERS

IN

THEIR CONSULAR TRANSACTIONS;

COMPRISING

THE INSTRUCTIONS OF THE DEPARTMENT OF STATE IN REGARD TO CONSULAR EMOLUMENTS, DUTIES, PRIVILEGES, AND LIABILITIES.

WASHINGTON:
PUBLISHED BY TAYLOR AND MAURY.
1856.

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1878, Sept. 25.

From William Green,
(illegible)

Entered according to act of Congress, in the year 1856,

By TAYLOR & MAURY,

in the Clerk's Office of the Circuit Court of the District of Columbia.

INTRODUCTION.

At the late session of Congress, an act was passed to regulate the diplomatic and consular systems of the United States. This act is of a most comprehensive character, and enters into much detail in relation to consular affairs, prescribing duties to be observed by merchants engaged in foreign trade, shipowners and shipmasters, collectors of customs, and American travellers in European countries; repeals many of the provisions of existing laws, and revives others, intimately affecting the shipping interests of the country, which were adopted more than half a century ago, and were subsequently repealed; abolishes all fees heretofore received by consuls, prescribes a new tariff of consular fees, and imposes heavy penalties for malfeasance and for neglecting the observance of the requisitions of the statute. The importance of these provisions, affecting as they do so many classes of the community, has suggested the publication of this volume for general information. It embraces, as will be perceived, in addition to a brief historical sketch of the consular system of the United States, the regulations of the Department of State for consular officers, the laws relating to their duties, forms to be observed in the transaction of consular business, together with copious indexes for convenience of reference.

It is believed that this work will be found useful to persons seeking appointments as consular officers, in furnishing them with information requisite for the discharge of consular duties, as well as to those engaged in foreign commerce. To shipmasters, especially, much of the information which it contains is indispensable under the provisions of recent statutes. In the exercise of their arduous and responsible vocation, they have frequent occasion for the services and assistance of consular officers, which must be rendered in accordance with the laws of the United States and the instructions of the Department of State, with both of which, so far as they relate to their own duties, they should be fully acquainted.

WASHINGTON, *December*, 1856.

HISTORICAL SKETCH

OF THE

UNITED STATES CONSULAR SYSTEM.

The establishment of a consular system in the United States was nearly coeval with that of the general government. In the second annual address of President Washington to the first Congress, he informed that body that "the patronage of our commerce, of our merchants and seamen, called for the appointment of consuls in foreign countries; that it seemed expedient to regulate, by law, the exercise of that jurisdiction and those functions which are permitted either by express convention or by a friendly indulgence in the places of their residence." It may be recollected that, prior to this period, consuls were not allowed salaries, nor permitted to demand fees or receive perquisites.

In each branch of Congress this recommendation of the President was referred to the appropriate committee, and consular bills were reported in accordance therewith. They failed, however, to become laws, the House having stricken out the whole of the Senate bill with the exception of the first section.

In the early part of the second Congress, substantially the same bill, probably drawn by Mr. Ellsworth, (afterwards Chief Justice,) was reported to the Senate by a committee to whom the recommendation of the President had been referred; and, subsequently, after the adoption of several amendments, it passed both branches of Congress unanimously, and became, on the 14th of April, 1792, a law of the land.

This law defined the duties of consular officers under the consular convention which had been recently negotiated with France, and likewise respecting the estates of deceased American citizens, stranded vessels, protests and declarations, consular fees and bonds, destitute seamen, and, in certain cases, masters of vessels.

It also fixed the salaries of consuls in the Barbary States. With the exception of those portions of the law relating to the convention with France, which expired July 7, 1798, and to consular fees and salaries, and the duties of masters of American vessels towards discharged seamen in certain cases, the act remains at the present day, more than sixty years subsequent to its enactment, in full force and effect; a striking proof of the wisdom and foresight of its framers, among whom may be mentioned the names of Ellsworth, Morris, King, Monroe, Burt, Schuyler, Langdon, Gerry, Cabot, Boudinot, Huntington, and Wadsworth.

An act, supplementary to that act, concerning consuls and vice consuls, and for the further protection of American seamen, which passed both branches of Congress without a division, received, on the 28th of February, 1803, the approval of the President. It made provision for the delivery of crew lists to the collectors of customs by the masters of American vessels bound on foreign voyages; required bonds to be given by such masters for the return of the seamen named in the crew lists, unless they died or were discharged abroad; the deposit of ships' papers with American consuls; the discharge of seamen; the payment of three months' extra wages in certain cases; the relief and transportation to the United States of destitute seamen; the payment of consular fees; the authentication by consuls of the transfer of United States stock; and penalties for the issue of false certificates and passports. With the exception of what relates to consular fees, the whole of this law now remains unrepealed on the statute book.

Some of the provisions of this act were suggested by President John Adams, in his second annual address to Congress. He stated that the provisions of the act of 1792 for the support of seamen in foreign countries and for their return to the United States, were found inadequate and ineffectual; he also recommended that consuls be authorized to demand for inspection the registers and sea letters of American vessels, it having been discovered that foreign vessels were sailing under the flag of the United States and with forged papers.

From this period till the year 1855, with the exception of the act of July 20, 1840, regulating the shipment and discharge of seamen and the duties of consuls, scarcely any change was made in the laws affecting the consular system.

President Jackson, in his third annual message, recommended a revision of the consular laws for the purpose of supplying defects and omissions which had been discovered in their operation. Reference was also made therein to an able report on the subject submitted by Mr. Livingston, at that time Secretary of State, in which he referred to the general provisions of the law of 1792, forming then, as at the present time, the ground-work of the consular system of the United States, and to the undefined powers given by the ninth section of the act of 1803, which provides that "the specification of certain powers and duties to be performed by consuls and vice consuls shall not be construed to the exclusion of others resulting from the nature of their appointments, or any treaty or convention under which they may act." No instructions having been given either by the legislative or executive department to define the powers, or to prescribe the compensation to be given for the exercise of the duties thus indefinitely alluded to, consuls were left to the exercise of their own judgment in regard to their official duties, and to the compensation, except in a few cases, to be given for official acts. It was stated that a more precise designation of the consular duties was of the first necessity, and if the system of compensation by fees should be continued, there was needed a more specific table of the fees which ought to be charged for consular services. So far as the power of the department extended, an attempt had been made to obviate the former difficulty by circular instructions to consuls and commercial agents, which were submitted to the consideration of Congress; but legislative aid was thought to be necessary to extend the consular powers where they were deemed inadequate, or to restrict them where they were supposed to be too unlimited. The abolition of consular fees was strongly recommended, because their exaction was a fruitful source of misunderstanding between American consuls and the masters of vessels, injurious to the reputation of the country, and degrading to the

consular officer; they were stated to be unequal in their operation and oppressive to commerce. The opinion was expressed that consular officers, like all others, should be compensated by adequate salaries, and be prevented from engaging in commerce. These provisions, Mr. Livingston remarked, ought to be accompanied by positive enactments prohibiting consuls from having any interest in commercial matters, defining clearly the limitations of official duties, and imposing heavy penalties for neglecting them; in which case it was supposed the consular offices might be filled, as they should be, by men of talent, education, and respectability of character, who should be the protectors, not the rivals, of American merchants, and would command the respect of the functionaries of the ports in which they were to reside, do honor to the national character, and devote their whole time to the duties of their respective consulates. The Secretary suggested, that, by a proper distribution of the one hundred and fifty-six consulates or commercial agencies then in existence, thirty consular officers should receive an average salary of $2,000 each, and the remaining one hundred and twenty-six each a salary of $1,000—making the total expense of the consular system $186,000. This amount was estimated as necessary for the support of the consular establishment, at that time, with the expectation that it would be increased as additional consulates should be created to meet the growing demands of commerce. It was not supposed that this expense would be considered extravagant, since not only the respectability of the government and the security of its citizens abroad would be promoted, but the commerce of the United States, from which nearly the whole revenue of the country is derived, would thereby be protected and extended. Notwithstanding the report of Mr. Livingston received the executive sanction, and commended itself to the judgment of all men practically acquainted with the subject, no amendment of the consular system was made prior to the passage of the statute of July 20, 1840, to which reference has been made, regulating the shipment and discharge of seamen.

This important act, though containing many excellent provisions, was, in some respects, as will appear from the report of Mr.

Buchanan, and the subsequent legislation on the subject, exceedingly defective, and productive of ill consequences to the seamen, whom it was designed to relieve. It also required large expenditures to be made from the treasury of the United States.

A bill to remodel the consular system was introduced into the Senate in 1844, by Mr. Semple, of Illinois. In his remarks in explanation of it, he stated that the greater part of the bill was no more than a collection of the existing laws forming and regulating the consular establishment, and the instructions which had been from time to time issued by the Secretary of State. He referred to, and commended, a memorial that had been presented by the board of commerce of New York, praying for the appointment of consuls in China, who should be compensated by regular salaries, instead of fees, and prohibited from engaging in trade.

In advocating the expediency of providing salaries for consular officers, he remarked that the change would add little or nothing to the net expenses of the system, and would be well calculated to increase the commerce and wealth of the country by affording more ample protection to American enterprise.

The bill was referred to the committee on commerce, and subsequently, on motion of Mr. Huntington, of Connecticut, was reported back to the Senate without amendment, and indefinitely postponed.

On the 10th of August, 1845, the House of Representatives referred to Mr. Buchanan, then Secretary of State, a bill to revise the consular system of the United States, with instructions to make a report to the House, at the commencement of the following session, on the consular system generally, with such information as he might be able to collect and arrange upon the subject. In obedience to this resolution, Mr. Buchanan presented to the House of Representatives, on the 14th of December following, an able and elaborate report. The Secretary remarked that a consular system, adequate to the protection of the extended foreign commerce of the United States, ought to be embraced in a single law, to which consuls could at all times refer, and all former acts upon the subject repealed. He suggested that such a statute should provide for the number, appointment, and compensation of all

consuls general, consuls, and vice consuls, should define all the duties of these officers, and specify the fees to be received for their performance. The creation of the grade of consul general in the Barbary States, and some of the ports of the Levant, was recommended. The opinion was clearly expressed that consular officers should be compensated by salaries from the treasury, at least at the more important posts, and not by fees. It was remarked, that, until this change should be effected, and consuls at those ports where a large American trade is conducted shall be prohibited from engaging in mercantile pursuits, a consular system, such as the vast interests of American commerce required, could never be established. In the opinion of the Secretary, it was not expedient to tax the foreign commerce of the country with consular fees. It was already compelled to sustain a competition with the whole world, and through its agency was collected the greater part of the revenue for the support of the general government; and it seemed both politic and just to relieve it from the payment of consular fees. The time did not appear to have come to cast the support of the whole system upon the public treasury, and it was considered proper that consular fees should continue to be collected for the purpose of indemnifying the treasury in part for the payment of the salaries of consular officers. To prevent all disputes, concerning their fees, between consular officers and persons requiring their services, it was urgently recommended that these should be made clear and specific.

The attention of the House was also called by the Secretary to the importance of defining, with as much accuracy as the nature of the case would permit, the powers and duties of the consular office. These, he judiciously remarked, should no longer be left to the discretion of the consuls themselves, regulated by no rule whatever except what they may deem as "resulting from the nature of their appointment." It was of the highest importance that a class of public agents, whose field of duty lies beyond the limits of the United States, far from the means of information, and whose conduct must materially affect the interests of commerce, and who might, under peculiar circumstances, even en-

danger the peace of the country, should have their powers and duties defined in a clear and explicit manner.

The attention of Congress was also called by Mr. Buchanan to the provisions of the treaties of the United States with the Sultan of Turkey and the Emperor of China, by which those sovereigns are deprived of all criminal jurisdiction over citizens of the United States. Having surrendered this sovereign power to the United States under a solemn engagement that it should be faithfully executed, those governments had a right to expect that Congress should provide for the performance of this obligation; there was an urgent necessity that this should be done immediately, as these stipulations were in fact absolutely void. Reference was made to the fact that in not a single instance had the mode been prescribed by Congress for executing the judicial powers conferred upon consuls under existing treaties with Tripoli, Tunis, Morocco, Muscat, Sweden, Prussia, Russia, Hanover, and Portugal.

The attention of Congress was directed to the increasing expenditures for the relief of destitute seamen arising from that provision of the act of July 20, 1840, which authorized consuls, whenever they deemed it expedient, to discharge seamen in foreign ports, upon the joint application of the master of the vessel and the seamen, without requiring the payment of the three months' wages provided by the act of February 28, 1803. The expenditures for this purpose had increased, in 1845, from $40,000, the amount appropriated in 1840, to $75,000, and the recommendation was made that this provision of the law should be altogether repealed. The reasons for this recommendation were presented at length and with great force and clearness. The provision here referred to was not repealed till 1856, the expenditures in the meanwhile annually increased, as Mr. Buchanan had foreseen would be the case, till they had risen to the large amount of $125,000 annually. The wisdom of the suggestion which had been made ten years previously was perceived, and the provision was repealed in accordance with the recommendation of Mr. Buchanan. Other important suggestions were made; one, especially, relating to the communication to Congress, in a digested form, of the great mass of valuable information annually transmitted

to the Department of State by consular officers. He remarked that no doubt could be entertained that a mass of information might be procured through the agency of a properly constituted consular system which would be of great advantage to the navigating, commercial, agricultural, and manufacturing interests of the country. In order to render this information available, it was suggested, as indispensable, that a competent person should be employed to digest, arrange, and publish the information thus obtained, for the use of Congress and the people. The same recommendation was made to Congress in 1854, and again in 1856, by Mr. Marcy, and it doubtless led to the passage of the law which is inserted on the 308th page of this volume, which authorizes the Secretary of State, in addition to the changes and modifications in the commercial systems of other nations, now required to be transmitted by the act of August 6, 1842, to lay before Congress, annually, all other commercial information communicated to the department by consular and diplomatic agents of the government abroad, together with such other information as might be considered sufficiently important, which is contained in the official publications of other governments.

Although the report of Mr. Buchanan did not lead at once to a revision and amendment of the consular system, its suggestions, when an opportunity was presented, some years afterwards, to remodel the system, afforded valuable aid.

His remarks on the importance of making provision to carry into effect the stipulations in the treaties of the United States with certain foreign nations, attracted the attention of the judiciary committee of the Senate, by whom a "most important and valuable bill" was introduced, drawn, as it is understood, by Mr. Butler, of South Carolina, which became a law on the 11th of August, 1848. This act, consisting of twenty-four sections, has for its object, to carry into effect certain provisions contained in the respective treaties between the United States and China, and the United States and the Ottoman Porte. It will be found at the 337th page of this volume; in the thirtieth chapter are the comments upon it of the Attorney General, who, when commissioner to China, negotiated the treaty with that country.

Various unsuccessful attempts were subsequently made at different times to revise the consular establishment, and bills for that purpose were introduced into Congress by Mr. W. W. Campbell, Mr. J. R. Rockwell, and Mr. Breese.

In the year 1854, Mr. Perkins, of Louisiana, then a member of the House of Representatives from Louisiana, having devoted himself most assiduously to the study of the subject, prepared a bill to remodel the diplomatic and consular systems of the United States. It was introduced into the House, and referred to the committee on foreign affairs. On the 1st of August, a report from the committee was submitted to the House by Mr. Perkins, which presented a general view of the existing diplomatic and consular systems of the United States, with statements showing the number and cost of the several missions and consulates, the expenses annually incurred for the payment of outfits and return allowances, and the inequality of the scale of compensation provided for ministers and consuls. Referring also to the fees required by law for consular services, the recommendation was made to discontinue the system of compensation by fees, and to substitute salaries therefor, and to prohibit consuls in important commercial ports, and in large manufacturing districts, from transacting business.

The bill, as reported to the House by the committee of foreign affairs, was thoroughly explained by Mr. Perkins in two elaborate speeches, in which was condensed a great deal of information concerning the diplomatic and consular systems of the United States, and some account given of their practical operation since the period of the adoption of the constitution. He stated it as the opinion of the committee on foreign affairs that the evils attendant upon the then existing organization arose from the adoption, in the first place, of a system cumbersome in its details and unsuited to the nature of American institutions; and from the extension of this system, as originally adopted, without the necessary modifications having been made to meet either the requirements of American development or the changed spirit of the age.

He explained at much length the provisions of the bill relating to diplomatic agents; in respect to consular officers it prescribed that their salaries were not to begin until after entering upon the discharge of their official duties, and to cease as soon as relieved of them by a successor; the absence of any consular or commercial agent from his district, for a longer period than ten days, without leave from the President, was forbidden, and their salaries ceased for any absence over ten days, with or without leave of absence; none but citizens of the United States could be appointed to diplomatic or consular positions, or employed as clerks, or have access to the archives of the foreign offices of the United States; consuls at all the principal ports were prohibited from transacting any business, either in their own name or through the agency of other persons. Consular and commercial agents were compensated by fixed salaries, instead of fees; fees for passports, and all commissions upon money advanced as wages, or for the relief of seamen in distress, were abolished; it changed in many particulars, and reduced the tariff of fees and commissions for other consular acts; it attempted to define with more precision the duties of consuls in the settlement of the estates of persons dying abroad, abolish all sub-agencies and vice consulates, and provide for the return of all fees and commissions to the government, to be used as a general fund for the payment of consular salaries.

The bill was advocated in the House by Mr. Chandler and others, and finally passed by a vote of 143 yeas to 33 nays.

In the Senate, it was referred to the committee on foreign affairs, by whom it was reported to the Senate without amendment. The provisions of the bill, were explained by Messrs Mason, Clayton, and Benjamin, and it passed the Senate unanimously; it received the approval of the President on the 1st of March, 1855, and went into operation on the 1st of July in the same year. Although many defects were perceived in the bill by the Senate committee, yet, as it undoubtedly contained good features, and as the termination of the session was too near at hand to afford time for its amendment, it was considered expedient to permit the bill to become a law, leaving it for

Congress at its next session to make the necessary amendments where its provisions should be found inoperative or defective.

To assist the consular officers of the United States in the execution of the provisions of this statute, it became necessary to prepare instructions for their information and guidance. The necessity for this had been anticipated by the framers of the law, and provision had accordingly been made, authorizing the Secretary of State "to prescribe such additional regulations for the keeping of the consular books and records, and ensuring proper returns, as the public interest may require." Prior to this period, the consular instructions were contained in a small pamphlet, and were limited to a few points of general interest and importance. Consequently, in the discharge of their duties, consuls had frequent occasion to seek special instructions from the department in regard to questions which might readily have been determined by the provisions of a systematic code. In the report of Mr. Livingston, to which reference has been made, he urged the importance of providing, by law, for the adoption of explicit regulations. He remarked, "that the consular functions are highly important, and ought to be strictly defined. They are performed in a foreign country, often in collision with the officers of the nation in which they are placed, and therefore public as well as private interests are put in jeopardy by their errors or faults." He added that, "as no facilities for the high discharge of their duties were offered by the government, consular officers should not be rebuked, unless there was an appearance of a maldisposition on their part for doing as well as they could." The Attorney General of the United States, in calling attention to the imperfection of the whole consular system, remarked, that it would be fully appreciated by a perusal of the contents of De Clercq's "Guide des Consulats" and his "Formulaire," and stated that other governments had been compelled to issue explicit and stringent consular regulations, and suggested that at least the whole matter of consular fees should be deliberately revised in the consular bureau.

The Secretary of State, Mr. Marcy, immediately after the passage of the law, gave his attention to the subject, and a volume

of instructions was prepared and transmitted to the United States consuls, which contained very full and precise directions in regard to their rights, duties, privileges, liabilities, and emoluments. Reference was made to the laws, to judicial decisions, and the opinions of attorneys general affecting the consular functions. Special directions were given for the government of consular officers in their correspondence with the several executive departments, and the transaction of consular business. In the preparation of the volume, it became necessary to request the opinion of the Attorney General on several points which arose in carrying into practical execution the provisions of the statute. Two elaborate opinions were accordingly submitted by him, dated, repectively, May 25th and June 2d, in which he reviewed, with great acuteness, the whole legislation of Congress from the formation of the government, and the administration of the executive in respect to the appointment, compensation, and duties of diplomatic and consular agents. Several points of difficulty in the interpretation of the law and the execution of its provisions were readily disposed of; others remained to be settled by suitable supplemental legislation.

In concluding his comments on a statute which had been prepared with great care, and subjected to much criticism in all the stages of Congressional legislation, the Attorney General remarked, in his communication to the Secretary of State, that, "we know how difficult a task it is, in remodeling any great department of the public service, to give apt expression to all which is included in the assumed theory of the act. It requires much circumspection and reflection to adapt successfully the new parts of the system to the old ones; many *lacunæ* will remain to be filled up; some things will be disturbed, which it was not intended to touch; and when the judge or the administrator comes to deal with the act of legislation as a practical matter, and to review all its provisions in their relation to one another, and to the pre-existing provisions of law, he finds himself driven, by inexorable force of logic, into consequences of construction not anticipated by the legislator. These unforeseen consequences increase in degree or number in propor-

tion as the legislative body indulges in the prevailing disposition to enter into the field of mere administrative regulations, instead of devoting its attention to the superior and more important and much pretermitted duty of prescribing organic rules and generic principles of administration.

"These final reflections it seems not out of place to submit, on your account as well as my own, in explanation and apology of many questions of construction which have arisen, and could not fail to arise, on a measure of so much magnitude as that of remodelling the diplomatic and consular systems of the United States. Whatever of inevitable imperfection there may be in this initiatory enactment, in the right direction, will, of course, in due season, receive the attention of Congress."

Pursuant to the suggestions here made, in the early part of the first session of the thirty-fourth Congress, the Senate adopted a resolution, on motion of Mr. Mason, of Virginia instructing the committee on foreign relations to inquire and report to the Senate, what alterations, if any, they may deem necessary or expedient to make in the act entitled "An act to remodel the diplomatic and consular systems of the United States," so far as the diplomatic service is affected by the said act. The House of Representatives, on motion of Mr. Faulkner, of Virginia, adopted a resolution instructing the committee on foreign relations to inquire into the expediency of making changes and modifications in the above mentioned act.

On the tenth day of July, Mr. Mason presented to the Senate, a report from the committee on foreign relations, in which it was stated, that, with a view to avail themselves of the experience and information of the Department of State touching the subject committed to them, the committee communicated the resolution of the Senate to the Secretary of State, asking for his opinion respecting the alterations that it might be proper to make in the act; a letter had been received from that officer embodying the views of the department on the subject of the diplomatic system of the United States, in which the committee entirely concurred, and they reported a bill accordingly. It is understood that a similar letter was addressed to Mr. Penning-

ton, of New Jersey, the chairman of the committee on foreign affairs of the House of Representatives.

In the opinion of the department, it was expedient, in the event of any amendment of the existing law, to keep the diplomatic and consular systems distinct, and to embody the provisions in regard to each in separate bills. In a paper accompanying the communication of the Secretary of State, care was taken to present, in a concise and well digested form, some suggestions of the diplomatic and consular agents of the United States in foreign countries, which had received the approval of the department.

On the fifth of August, Mr. Pennington, from the committee on foreign affairs in the House, reported a bill to regulate the diplomatic and consular systems of the United States, which was substituted for that which had previously passed the Senate, and which related only to the diplomatic system. It received its first and second reading on the same day, and was ordered to be printed.

On the fifteenth of August, the bill coming up for consideration, the House of Representatives refused, by a large vote, to lay it on the table, which would have been equivalent to its defeat—twelve members only voting in the affirmative. After a few remarks by several members in reference to the bill, the question was taken on its passage, and decided in the affirmative, by one hundred and three yeas to fifty-six nays.

On the sixteenth of August, the bill was taken up for consideration in the Senate, read three times on the same day, and passed without a dissenting vote. It has rarely happened, that a law so important as this has passed Congress with such unanimity—one involving many and important changes in the diplomatic and consular systems of the United States; creating new offices; increasing, reducing, or entirely abolishing the salaries of many consular officers; containing provisions affecting every American merchant and shipmaster engaged in foreign trade, and every American traveller in Europe; repealing provisions of existing laws; enacting others for the regulation of the agents of the government in foreign countries, and of civil officers in the United

States; imposing heavy penalties for the violation of the provisions of the statute; and authorizing and requiring the performance of important duties by the highest executive officers of the government. The favor which the bill received in both branches of Congress was doubtless due, in part, to the fact that the near approach of the close of the session left little time for its discussion and amendment, and to the respect entertained by the House for the committee on foreign affairs, which reported the bill, whose chairman, it was understood, had devoted much time and care in its preparation.

The law provides for the rate of compensation to be received by all diplomatic and consular officers, of whatever grade; fixes their compensation; permits the latter to transact business, or prohibits them from doing so, in certain places; prescribes the conditions of official bonds; imposes penalties for the violation of the provisions of the law, and indicates the manner in which actions for the recovery of penalties shall be tried; authorizes the appointment of consular pupils, of interpreters, and of additional secretaries of legations; fixes the period at which the compensation of the officers named in the act shall commence and terminate; provides for the filling of diplomatic and consular offices temporarily vacant, and the pay to be received by officers acting *ad interim;* forbids the exercise of diplomatic functions by unauthorized persons; authorizes the President to define the limits of the several consular and commercial agencies, to provide for the appointment of subordinate consular officers and their compensation, and likewise to fix the rate or tariff of fees for consular services and designate what shall be regarded as official services; requires the consular tariff to be reported to Congress annually, and also the amount of fees received at the several consulates; directs the mode in which the payment of fees shall be made and accounted for, and the coin in which they shall be payable; imposes additional duties upon collectors and shipmasters in respect to consular services, receipts, and invoices; forbids diplomatic and consular officers to be absent from their posts, or to hold correspondence in regard to the public affairs of any foreign govern-

ment with the press, or private persons, or otherwise than with the proper officers of the United States; forbids consular officers being pecuniarily interested in the receipt or disbursement of the wages of seamen, or in expenditures made for their relief or transportation; provides that no compensation shall be paid to diplomatic and consular officers, unless they shall be citizens of the United States; authorizes the President to supply the legations and consulates of the United States with certain articles necessary for the transaction of the public business, and to prescribe such regulations, and make and issue such orders and instructions, not inconsistent with the Constitution or any law of the United States, in relation to the duties of all diplomatic and consular officers, the transaction of their business, the rendering of accounts and returns, the payment of compensation, the safe-keeping of the archives and public property in the hands of all such officers, the communication of information, and the procurement and transmission of the products of the arts, sciences, manufactures, agriculture, and commerce, from time to time, as he may think conducive to the public interests; requires these officers to conform to such regulations, orders, and instructions; makes it the duty of the Secretary of State to publish official notifications, from time to time, of such commercial information communicated to him by the diplomatic and consular officers as he may deem important to the public interests, and to report to Congress, at least once in each year, a synopsis of so much of the information on all subjects, which shall be so communicated to him, as he may deem valuable for public information; authorizes the granting and issuing of passports, under certain conditions, and the performance of notarial duties by secretaries of legation and consular officers; enacts various provisions in regard to the desertion of seamen, the payment and the forfeiture of wages and extra wages in certain cases, and the settlement of seamen's accounts, and their discharge in foreign countries; provides for the accountability of consular officers for the extra wages of seamen; prescribes the kind of returns and reports to be made by consular officers, and requires all shipmasters to apply to consular officers for the

transaction of consular business, and permits the detention of ships' papers till payment shall be made of all demands and wages on account of such ships and vessels; defines the duties of consular officers in respect to all citizens of the United States dying abroad, and the meaning to be affixed to the several titles by which consular officers are designated; imposes heavy penalties for all malfeasance, and for the violation of the provisions of the act; repeals all acts and parts of acts inconsistent with its provisions; and, finally, provides that the act shall take effect on the first of January, 1857.

It will thus be seen, that the law which now regulates the diplomatic and consular systems of the United States embraces a great number of subjects, and enters into much detail with respect to all matters pertaining to the consular office. Many of its provisions are eminently judicious; the expediency of others must be tested by time and their practical operation.

The treaties and conventions of the United States with foreign nations contain many important provisions relating to the duties, rights, and privileges of consuls, especially those which have been negotiated with China and the Ottoman Porte.

But "the most complete consular conventions ever concluded," as remarks Mr. Tuson, the latest writer on the subject of the duties of consuls, "are those between France and the United States, and between the latter country and Holland; the former negotiated at Washington by Mr. Everett and Mr. Sartiges, and the latter at the Hague, under the instructions of Mr. Marcy. The rules laid down therein are very explicit, and ought to be taken as examples by all other nations. They will be of great utility to all consuls, in showing them what their present duties are, and what they are most likely to become. These conventions are such as are likely to be taken as precedents for future treaties on the same subject."

Occurrences which have taken place in the United States and elsewhere, within the last few years, have shown how defective is the legislation of this country in respect to consuls. The subject attracted Mr. Webster's attention, while Secretary of State; and, at his suggestion, the attention of Congress was called to it. He

remarked, that no country has a deeper interest in securing the protection of diplomatic and consular agents than the United States. Their commerce spreads over every sea, and visits every clime; and these agents are appointed to protect its interests, as well as to guard the peace of the country, and maintain the honor of its flag. While thus engaged in the discharge of important functions, they should be objects of especial respect and protection, each according to the rights belonging to his rank and station.

As much has been done during the last four years as at any former period in this country, by means of consular conventions, by legislation, and by circulars issued by the Secretary of State, not only to secure these objects, but to perfect the consular system, and to render it useful to the country. In obedience to the circulars issued by Mr. Marcy to consular officers on the 8th of October, 1853, the 15th of March, 1854, the 11th of July, 1855, and also the general and special instructions of the Department of State, a vast amount of information relating to ship-building, shipping, navigation, tonnage, seamen, foreign tariffs, commercial regulations, and other subjects, have been transmitted to the department by the United States consuls. The matter thus collected, is important and valuable; its preparation reflects great credit on the industry and intelligence of the consular corps, and affords a striking illustration of the importance of their services.

Several valuable documents, prepared under the direction of the present Secretary of State, have already been transmitted to Congress, and widely circulated; among which may be named one on "The Cotton Trade," and one on the subject of "American Tobacco," and another, on "Commercial Changes," while others, far more voluminous, will soon follow. Among the latter, the "Report on the Commercial Relations of the United States with all Foreign Nations" will be of great value. The first part embraces a succinct account of the history, character, and extent of the commercial relations of the United States with every foreign nation, accompanied by comprehensive and elaborate tabular statements. The second branch of the work comprises tables exhibiting a comparative statement of the tariff of the United

States with the tariffs of all other nations; and the third part embraces the answers of the United States consuls to the circulars of the Department of State. The whole work will be comprised in three or four quarto volumes of about eight hundred pages each. The value of well-considered and carefully-prepared returns, on commercial subjects, from agents of the government abroad, cannot well be estimated too highly; and in no way can consular officers render better service to the country than by the prompt communication of commercial information.

At the present time the consular corps of the United States consists of seven consuls general, one hundred and seventeen consuls, and nine commercial agents, who receive for their compensation fixed salaries; ninety consuls, ten commercial agents, and eighty-five consular agents, who are authorized to retain for their compensation the official fees which they receive. Residing as these officers do in all the principal marts of traffic and commerce throughout the world, and having their duties carefully defined by law and the instructions of the Executive, it may reasonably be expected that all information affecting the commercial relations of the United States with foreign nations will be furnished by them to the Department of State, and published for the benefit of their fellow-citizens.

As an illustration of the value to be placed on the correspondence of consuls, it may be stated that in a debate which took place in 1842, in the House of Commons, Lord Palmerston remarked, that, during the time he had the honor of being at the head of the foreign department, he had read every report and every letter received from the consular officers abroad, from the most elaborate report of the highest consul general down to the least important letter of the lowest vice consul. "Very laborious reading it was," he adds "but, scattered through the voluminous papers that thus came under my eye, I found many important matters with which it was my duty to be acquainted; and it is quite a mistake to suppose that, because there is a superintendent of the consular department, the Secretary of State does not give the same minute attention to the consular as to the other duties of the office, though the consular correspondence amounts to one-half

of the whole correspondence of the foreign office." The perfection to which the consular system has attained in France furnishes an illustration of what may be accomplished by a thoroughly organized consular establishment. The objects contemplated by such a system, as has been well remarked by a writer practically acquainted with the subject, are nothing less than the advancement of the prosperity and power of nations. Deputed to watch over the commercial rights and privileges of their respective countries, consular officers are intrusted with the care of the highest interests, and exercise a more important influence upon mercantile prosperity, the foundation of national greatness, than any other foreign agents of government. Scattered throughout the whole world, occupying an eminent social position in all the mercantile cities of every nation, and performing duties which bring them more or less into collision with the people among whom they reside, they, by their conduct and manners, influence the judgment which is formed of the country they represent, and either add to its dignity or reflect dishonor on its national character.

REGULATIONS

FOR

CONSULAR OFFICERS

AS PRESCRIBED BY

THE PRESIDENT.

TABLE OF CONTENTS.

CHAPTER I. PAGE.

General remarks on the nature and duties of the consular office..... 11

CHAPTER II.

Consuls General..... 21

CHAPTER III.

Consuls and other consular officers..... 23

CHAPTER IV.

Deputy Consuls and Vice Consuls..... 25

CHAPTER V.

Commercial Agents..... 27

CHAPTER VI.

Consular Agents..... 29

CHAPTER VII.

Consular Pupils..... 31

CHAPTER VIII.

Consular Clerks..... 35

CHAPTER IX.

Duties of a consular officer after receiving notice of his appointment..... 37

CHAPTER X.

Formalities to be observed by a Consul General or Consul after arrival at his post..... 40

CHAPTER XI.

Instructions respecting the correspondence of a consular officer with the Department of State..... 44

CHAPTER XII.

PAGE.

Compensation of consular officers..... 48

CHAPTER XIII.

Consular fees..... 60

CHAPTER XIV.

Record books and archives of the consular office..... 66

CHAPTER XV.

Consular reports and returns..... 70

CHAPTER XVI.

Verification of invoices..... 79

CHAPTER XVII.

Consular accounts..... 68

CHAPTER XVIII.

The reciprocal duties of consular officers and masters of American vessels. 104

CHAPTER XIX.

Duties of consular officers in relation to seamen of the United States..... 121

CHAPTER XX.

Duties of consular officers in relation to wrecks 136

CHAPTER XXI.

Duties of consular officers in relation to the estates of intestates 140

CHAPTER XXII.

Duties of consular officers in respect to citizens of the United States..... 152

CHAPTER XXIII.

Attendance of consular officers as witnesses in court..... 158

CHAPTER XXIV.

Duties of consular officers in respect to the passenger act..... 160

CHAPTER XXV. PAGE.

Duties of Consuls General and Consuls in relation to the granting of passports and certificates 164

CHAPTER XXVI.

Official intercourse of United States consular officers with officers of the Navy 170

CHAPTER XXVII.

Duties of United States consular officers in Africa 173

CHAPTER XXVIII.

Duties of United States consular officers in Turkey 180

CHAPTER XXIX.

Duties of United States consular officers in China 190

CHAPTER XXX.

Judicial authority of the Commissioner or Minister, and of Consuls of the United States in China and Turkey 196

CHAPTER XXXI.

Duties of United States consular officers touching the solemnization of the rite of marriage 232

CHAPTER XXXII.

Instructions to consular officers in the British Provinces 252

CHAPTER XXXIII.

Duties of consular officers in respect to American owners of foreign-built vessels 257

CHAPTER XXXIV.

Commercial regulations 260

CHAPTER XXXV.

Exterritorial and other privileges of consuls 277

CHAPTER XXXVI.

Tariff of fees of United States consular officers 284

CHAPTER XXXVII.

PAGE.

Acts of Congress, and extracts therefrom, relating to United States consular officers 292

Extracts from "An act concerning consuls and vice consuls," approved April 14, 1792. Extracts from "An act supplementary to the 'act concerning consuls and vice consuls,' and for the further protection of American seamen," approved February 28, 1803. An act in addition to the act entitled "An act supplementary to the act concerning consuls and vice consuls," and for the further protection of American seamen, approved February 28, 1811. An act authorizing the deposit of the papers of foreign vessels with the consul of their respective nations, approved March 3, 1817. Extracts from "An act supplementary to and to amend an act entitled 'An act to regulate the duties on imports and tonnage,' passed second March, one thousand seven hundred and ninety-nine, and for other purposes," approved March 1, 1823. An act to prescribe the punishments of consuls, commercial agents, and others, in certain cases, approved March 3, 1835. An act in addition to the several acts regulating the shipment and discharge of seamen, and the duties of consuls, approved July 20, 1840. An act requiring foreign regulations to be laid annually before Congress, approved August 16, 1842. An act to provide for the transportation of the mail between the United States and foreign countries, and for other purposes, approved March 3, 1845. An act to amend an act entitled "An act requiring foreign regulations of commerce to be laid annually before Congress," approved August sixteenth, eighteen hundred and forty-two, and for other purposes, approved August 18, 1856. An act to regulate the diplomatic and consular systems of the United States, approved August 18, 1856. An act to carry into effect certain provisions in the treaties between the United States and China and the Ottoman Porte, giving certain judicial powers to ministers and consuls of the United States in those countries, approved August 11, 1848.

CONSULAR FORMS.

These forms commence a new series of paging, and follow Chapter XXXVII.

INSTRUCTIONS.

CHAPTER I.

GENERAL REMARKS ON THE NATURE AND DUTIES OF THE CONSULAR OFFICE.

Meaning of the term "consuls" in the Constitution of U. S.

1. The word "consuls,"[1] as used in the Constitution of the United States, designates a class of public officers appointed by their government to reside in foreign countries, and especially in seaports and other places of commerce, to discharge administrative and sometimes judicial functions in regard to their countrymen who dwell or may be in the country where they reside; to aid in the authentication of documents abroad, and generally to perform such other duties as may be assigned to them by the laws and orders of their government.

Classes of consular officers.

2. Accordingly, by various laws of the United States, duties are imposed and rights conferred on this description of public officers, under the names of consuls general, consuls, vice consuls, deputy consuls, commercial agents, vice commercial agents, and consular agents. It is provided by the 31st section of the act of Congress approved August 18, 1856, that these official designations shall be deemed to have the respective meanings therein assigned to them, namely: "consul general," "consul," and "commercial agent," shall be taken to denote full, principal, and permanent "consular officers," as distinguished from subordinates and substitutes; "deputy consul"

[1] Opinion of the Attorney General, June 2, 1855; 6 Wheaton, 168.

and "consular agent" to denote "consular officers" subordinate to such principals, exercising the powers and performing the duties within the limits of their consulates or commercial agencies respectively—the former at the same ports or places, and the latter at ports or places different from those at which such principals are located respectively; and "vice consuls" and "vice commercial agents" to denote "consular officers" who shall be substituted, temporarily, to fill the places of "consuls general," "consuls," or "commercial agents," when they shall be temporarily absent or relieved from duty; and the term "consular officer" to include all such officers as are mentioned in the said section, and none others.

Application of acts of Congress to consular officers.

3. It is further provided by the same section that, in the construction and for the purposes of all other acts and parts of acts which shall remain in force after the act above mentioned shall take effect, defining any of the powers, declaring any of the rights, prescribing any of the duties, or imposing any penalty or punishment for any act of omission or commission of any consul, commercial agent, vice consul, or vice commercial agent, or allowing or enjoining the performance of any act, matter, or thing, with or before any such officer, all such acts and parts of acts shall in all these several respects, so far as may be consistent with the subject-matter and context of the same and with the said act and the treaties of the United States, be deemed and taken to include and apply to all consular officers just as though all such officers were specifically named therein.

4. The important act of 1792 contains a declaratory provision, which is to be understood as implied in all other acts of Congress, as follows: Specification of certain consular powers and duties not to exclude others.

"The specification of certain powers and duties, * * *, to be exercised or performed by the consuls and vice consuls of the United States, shall not be construed to the exclusion of others resulting from the nature of their appointments, or any treaty or convention under which they may act."[1]

So that the powers and duties of consuls, besides being defined by acts of Congress, are indicated by general treaties and consular conventions entered into between the United States and other sovereign powers. Consular functions, rights, and duties, how indicated and defined.

5. Consuls possess, moreover, by the law of nations, many functions, rights, and privileges, other than such as are defined by convention, by legislative act, or by regulation. International law as affecting consuls.

6. Their privileges necessarily arise from the character of their appointments; but they are not, like those of ambassadors and other public ministers, precisely defined by international law; and, consequently, they may be extended or limited among different nations, either by treaties or the legislative policy of those countries. Although the commissions which United States consuls receive from their government are expressed in the same terms and confer the same authority, yet, as the consular functions are to be exercised in a foreign country, and in accordance with an exequatur issued by its sovereign, they may be more or less restricted. Whenever the immunities, rights, and duties of consuls are prescribed by mutual consular conventions, they are to be en- Consular privileges, how extended and restricted. Consular commissions, how to be understood. Effect of consular conventions.

[1] Statutes at Large, vol. I, p. 257.

joyed or exercised in accordance with the stipulations of such conventions. In those countries with which the United States have entered into no consular convention, consular officers may discharge such duties as are allowed or are not forbidden by the laws of those countries, or which are allowed by common usage; and sometimes they are permitted to exercise such privileges as are granted to foreign consuls by the United States within its own territory.

Consular duties in countries with which the U. S. have no consular conventions.

Duties of consuls when obstacles are interposed to the enjoyment of their privileges.

7. If the authorities of the places where consuls reside oppose any obstacles to their enjoyment of the privileges which may have been accorded by consular conventions, or which, founded on usage or reciprocity, may have been claimed by themselves, they will refer the subject to the legation of the United States residing in the country, and report the facts, together with their own proceedings and a copy of all their correspondence in relation to the same, to the Department of State, and await its instructions. In no case will they strike the consular flag or abandon their post without the express permission of the Department.

Personal demeanor.

8. One of the first duties of consular officers is to exhibit in their official conduct, and in their intercourse with the local authorities and with the people of the country, a proper respect for the supreme authority.

Style of official communications.

9. In their communications with official functionaries, they will be careful to set forth their views and opinions courteously but firmly, avoiding in all cases the use of violent or intemperate language. All discussions extended beyond the limits of a just moderation are injurious and defeat their own object.

10. It is, above all, by their personal influence and character, by circumspect conduct and a conciliatory spirit, that consuls will best succeed in settling difficulties and in the accomplishment of important objects. Commercial intercourse is a common bond of interest among all countries and all men, and it is by arguments drawn from this source, rather than by unreasonable pretensions and disputes, that injurious restrictions can be removed.[1] Influence of personal character.

11. The laws of the United States on the subject of consuls and vice consuls specially authorize them to receive the protests of masters and others relating to American commerce, and declare that consular certificates under seal shall receive faith and credit in the courts of the United States.[2] It is likewise made the duty of consular officers, where the laws of the country permit, to collect and remit the assets of the personal estates of American citizens who may die within their consulates and leave no legal representative, and to take charge of and secure the effects of stranded vessels, in the absence of the master, owner, or consignee; and they are bound to provide for destitute seamen within their consulates, and to send them, at the public expense, to the United States.[3] It is their duty, likewise, to reclaim deserters, to discountenance insubordination and lend their aid to the local authorities for this purpose, to discharge seamen cruelly treated, and to receive from the masters of American vessels, on their arrival at a foreign port, and after the vessel shall have come to an entry, the Duties imposed by laws of the United States.

[1] De Clercq, tome II, p. 32 *et seq.*

[2] Statutes at Large, vol. I, p. 255; act of 18th August, 1856, 24th section.

[3] Statutes at Large, vol. I, p. 255.

registers, sea letters, and passports of such vessels.[1] These duties, and some others which are prescribed by legal enactment, are in accordance with the usages of nations,[2] and with special treaty stipulations with certain countries.

Variety and importance of consular duties.

12. Many of the consular duties arise from peculiar circumstances: such as the character and habits of the nation in which the consul resides, its laws and customs, and the nature of its intercourse with the United States. In the most restricted sense, they are important and multifarious; are quite different from those of other officers employed in foreign affairs; and require for their proper performance an amount of practical information for which the consular officer needs a special training. Consuls are so situated as to exercise towards their countrymen within their consular jurisdiction the duties of judges, arbiters, and peacemakers; they are the registers of marriages, births, and deaths; they act as notaries, and sometimes as revenue officers; they watch over and verify the sanitary condition of their consulates; and, by their domestic relations, they can furnish a full and accurate idea of the commerce, navigation, and industry peculiar to the country of their residence.[3]

Duties in respect to commercial regulations.

13. The commercial interests of their own country are, in a measure, committed to their care. They are to see whether the stipulations in commercial treaties are observed, and report all changes in commercial regulations and municipal ordinances.

Every law, edict, or regulation of the government

[1] Statutes at Large, vol. I, p. 203. [2] Kent, vol. I, p. 42; Wheaton's El., p. 166.

[3] Talleyrand, quoted by Tuson, p. vi.

where they reside in any way affecting the commerce of the United States which comes to the knowledge of consular officers must be immediately transmitted to this Department; and, if it be a local regulation, operating only on a particular port, they must also give immediate notice thereof to the minister, if there be one in the country to which the district belongs.

Suggestions in regard to consular correspondence, and the transmission of new products, useful seeds, and samples.

14. Consular officers are expected, in their correspondence, to note all events which bear upon the commerce between the country where they reside and the United States, the establishment of new branches of industry within the limits of their consular jurisdiction, and the increase and decline of such as have been before established. They should also make such suggestions as, in their opinion, may lead to an increase of trade, and point out any circumstances which may have produced a contrary effect, with the means that appear proper for avoiding such a result. When new products of the arts, sciences, or manufactures appear to be valuable either for export or import, and this is not generally known, the fact should be communicated to the Department, and samples sent, if not too bulky, with the consular letters; but if too bulky they may be addressed to the collector of some one of our principal ports. Seeds of plants and grain suitable for cultivation in the United States should also be sent. In general, the duties of a consular officer require an attention to everything that can promote the commerce and navigation of this country, and the interests of its citizens.

Contentions to be avoided.

15. Consular officers are particularly cautioned not to enter into any contentions which can be avoided, either with their countrymen or the authorities of the

Conduct to be observed by consular officers towards their countrymen.

country in which they reside; referring questions of that nature to the minister or to this Department; using every endeavor to settle in an amicable manner all disputes in which their countrymen may be concerned; and countenancing and protecting them before the authorities of the country in all cases in which they may be injured or oppressed, but withholding from them support when they have been wilfully guilty of an infraction of the laws, particularly in any attempt to defraud the revenue. In this last case they will aid the proper officers in checking any such practices.

Consular officers to abstain from participating in politics in the countries where they reside.

16. All consular officers are forbidden to participate in any manner whatever, direct or indirect, in the political concerns of the countries by whose governments they are severally acknowledged and recognised in their public character; and they will be on their guard against the enlistment of their feelings upon the side of any of the political or sectional parties which may exist in these countries. In their letters upon such subjects, even to this Department, they will confine themselves to the communication of important or interesting public events, as they occur, in a clear and concise form, avoiding all unnecessary reflections or criticism upon the character or conduct of individuals or governments; and they will not give publicity, through the press or otherwise, to opinions or speculations injurious to the public institutions of those countries, or the persons concerned in the administration of them; but it is, at the same time, no less their duty to report, freely and seasonably, to their own government, all important *facts* which may come to their knowledge, through

Limits to be observed in consular correspondence.

authentic channels, touching the political condition of these countries, especially if their communications can be made subservient to, or may affect, the interest and well being of their own.[1]

Prohibitions in regard to consular correspondence, recommendation of friends for foreign offices, acceptance of presents, &c.

17 All consular officers are prohibited by the 19th section of the act approved August 18, 1856, from corresponding in regard to the public affairs of any foreign government with any private person, newspaper, or other periodical, or otherwise than with the proper officers of the United States, and from recommending any person, at home or abroad, for any employment of trust or profit under the government of the country in which they are located; as well as from asking or accepting, for themselves or any other person or persons, any present, emolument, pecuniary favor, office, or title of any kind, from any such government.[2]

Assumption of diplomatic functions prohibited.

18. As consuls, excepting in Mahommedan States, are not invested with diplomatic powers, they are not entitled to communicate directly, except under special circumstances, with the government of the country in which they reside. Consular officers are forbidden by the 12th section of the act to exercise diplomatic functions, or hold any diplomatic correspondence or relation on the part of the United States, in, with, or to the government or country to which they shall be appointed, or any other country or government, when there shall be in such country any officer of the United States authorized to perform diplomatic functions therein, unless expressly authorized by the President.

[1] De Clercq, tome II, pp. 34, 35.

[2] Stat. at Large, vol. I, p. 15; Session Statutes, 1st sess. 34th Congress, act of August 18, section 19th.

Mode of addressing foreign governments.

19. Whenever application is to be made to such government, it must be done through the minister of the United States, if there be one; if not, and the case should require it, the consul may make the application to the proper department, but in respectful terms, stating the exigency of the case, and that an application to the subordinate officers could not be made, or that it had proved ineffectual.

Consular officers not entitled to the privileges of public ministers; when not otherwise provided, subject to the laws of the country in which they reside.

20. A consul is not such a public minister as to be entitled to the privileges appertaining to that character, nor is he under the special protection of the law of nations. In civil and criminal cases, where not otherwise provided by treaty stipulations, he is subject to the laws of the country in which he resides.[1]

Consular officers to be conversant with treaties, conventions, and regulations affecting their own functions.

21. It is the duty of consuls to be conversant with all treaties, conventions, and consular conventions, also, with the laws and commercial and other regulations relating to their consular functions.

[1] Kent, vol. I, p. 44; Opinions of Attorneys General, vol. I, pp. 41, 77, 406; vol. II, p. 725; De Clercq, Formulaire, tome II, pp. 32, 33; Dall., vol. II, p. 297.

CHAPTER II.

CONSULS GENERAL.

Consuls general to be guided by the general instructions, and by specific instructions.

22. Consuls general of the United States will, like other consular officers, be guided in their official duties by the General Instructions. Inasmuch, however, as the duties which consuls general are required to discharge are often highly important and involve much responsibility, they will receive, from time to time, from this Department, as occasion may require, specific instructions for their information and guidance.

Transmission of correspondence.

23. Consular officers residing within the jurisdiction of a consul general will transmit their official correspondence and reports through him, unless otherwise instructed, and in cases of emergency when the delay in communicating with the Department would be prejudicial to the public interests.

Consuls general to give advice to consular officers.

24. Consuls general will, when requested by a consular officer, give their advice and counsel to him in all cases of difficulty, and in respect to all subjects affecting the interests of their own government or their countrymen.

Appointment of consular agents.

25. Whenever the interests of the United States require the appointment of a consular agent at any port or place within a consular district, the consul general of the United States, if there be such an officer in the country, will communicate to the Department of State the name of the individual whom the consul proposes to appoint, with the consul's reasons therefor, and also for the establishment of the agency, together with his own views on the

subject. All the papers relating to the case must likewise be transmitted to the Department.

Mode of communicating with a consular agent.

26. Whenever a consul general has occasion to communicate with a consular agent on official business, he will do so through the medium of the consul to whom such agent is responsible.

All consuls general prohibited from trading, &c.

All consuls general, whether specified in schedule B or appointed in accordance with the 4th section of the act of August 18, 1856, are subject to the prohibition in regard to trade mentioned in the 5th section of the same act.

Office of consul general.

27. The office of consul general may be given, as a mere titular designation, to imply rank; but it more properly signifies an office with special functions, well defined by the law of nations and public usage. Such an officer possesses utility and particular application in foreign countries of extensive but definite circumscription in which there is no proper diplomatic representative of the government, such as the several great European colonies, or other governments of that order, in Asia, Africa, and America. In the foreign dependencies of European powers, many of which are in themselves great states, with all the mechanism of local authority, and in some cases enjoying semi-independence under the administration of a governor, a captain general, or a pacha, it becomes necessary that some consular person should have power to communicate with the supreme colonial or feudatory chief, in behalf of his colleagues and his countrymen; and on the consul residing at the seat of such government will naturally devolve the functions, if not the title, of consul general.[1]

[1] Opinion of Attorney General, June 2, 1855; De Cussy, Règlements Consulaires, p. 70; Moreuil, Agents Consulaires, p. 18; De Clercq, Guide des Consulats, p. 28.

CHAPTER III.

CONSULS AND OTHER CONSULAR OFFICERS.

Principal consular officers defined.

28. Under the 31st section of the act of 18th of August, 1856, consuls general, consuls, and commercial agents, are deemed and taken to denote full, principal, and permanent consular officers, as distinguished from subordinates and substitutes.

Consular officers of the first class prohibited from being interested in or from transacting business.

29. The first class of consular officers are those consuls general, consuls, and commercial agents, who are appointed to the ports and places designated in schedule B section three of the above mentioned act, who, while they hold the consular office, are prohibited by the 5th section of the said act from being interested in, or from transacting any business as merchants, factors, brokers, or other traders, or as clerks or other agents for any such persons, to, from, or within the port, place, or limits of their consulates or commercial agencies, directly or indirectly, either in their own names or through the agency of any other persons.

Compensation.

30. Consuls of this class are entitled to compensation for their services, respectively, at the rates specified in said schedule B.

Consular officers of the second class.

31. The second class of consular officers are those consuls and commercial agents appointed to the ports and places designated in schedule C of the same section.

Compensation.

32. Consular officers of this class are entitled to compensation for their services, respectively, at the rates per annum which are specified in schedule C, and are not prohibited from being interested in or transacting business.

Consular officers of the third class and their compensation.

33. The third class of consular officers are those consuls general, consuls, and commercial agents, who are not embraced in schedules B and C, and who are entitled, as compensation for their services, to such fees as they may collect in pursuance of the provisions of the act of 18th of August, 1856.

Consular officers subject to the prohibition as regards business.

34. The President is authorized by the 15th section of the said act to subject any consul or commercial agent contemplated by the 4th section, and any vice consul, vice commercial agent, deputy consul, or consular agent, to the prohibition as to trade contained in the 5th section, and to require from them such bond as is provided for by the 13th section, whenever he shall think the public interests will be promoted thereby.

CHAPTER IV.

DEPUTY CONSULS AND VICE CONSULS.

Functions of a deputy consul.

35. A deputy consul is a consular officer subordinate to a consul, exercising consular powers and performing the duties within the limits of a consulate, at the same port or place at which his principal resides. He is required to perform such duties as may be assigned to him by the principal consular officer.

Deputy consuls, when to be appointed.

36. The appointment of a deputy consul is of unfrequent occurrence, and he can act only in case of the sickness of a consul, or of his inability to discharge with promptness such consular business as requires the personal attention of a principal consular officer.

Mode of appointment.

37. The nomination of a deputy consul must be communicated to the Department of State, and be accompanied by a statement of the reasons which require the appointment, with proof of the character and ability of the nominee and of his citizenship.

Local authorities to be apprised of the appointment.

38. As soon as the consul shall have received from the Department a confirmation of the appointment, he shall apprise the local authorities of the fact, and request the recognition of the deputy consul in his official character. Without such recognition it would be manifestly improper for a deputy consul to communicate officially with the authorities of the place.

Official papers to be signed by the consul.

39. In all cases it is desirable, as far as possible, that official papers requiring consular authentication should be signed by the consul.

Responsibility of consular officers for the acts of their agents.

40. It is to be understood that every consular officer is held by the Department responsible for the official acts of his agents, whatever may be their designation; and he will be expected to exercise over them such control as to prevent them from committing any acts of impropriety, dishonorable to the American name and character.

Appointment of vice consul or vice commercial agent.

41. A vice consul or vice commercial agent is an officer who is substituted temporarily to fill the places respectively of a consul general, consul, or commercial agent, in the absence of either of these officers. He is appointed in the same manner and subject to the same restrictions as a deputy consul. But in case of any sudden emergency requiring the services of a deputy consul or vice consul, where the interests of the United States or its citizens would suffer from delay, such deputy or vice consul may temporarily discharge consular duties prior to the confirmation of the appointment by the Department of State.

CHAPTER V.

COMMERCIAL AGENTS.

Duties of commercial agents.

42. The official duties of United States commercial agents resemble, in most respects, those of United States consuls. Similar instructions are given to both, subject to such modifications as are rendered necessary by the local laws or the customs of the places where these officers respectively reside.

Mode of appointment.

43. Commercial agents are not, like consuls, appointed by the President, by and with the advice and consent of the Senate; nor do they receive a commission bearing the seal of the United States. They are simply executive agents sent abroad for the promotion and advancement of commercial interests, selected by this Department, corresponding with, and instructed and controlled by it; and they receive a certificate of appointment bearing the seal of the Department. Their appointment remains unchangeably one of the organic powers of the Executive, derived from the Constitution and not from an act of Congress. Like other executive officers connected with this Department, they are amenable to it, and subject to regulations issued from it.[1]

Recognition by local authorities not absolutely necessary.

44. Their recognition by the authorities of the place where they reside, although important, in affording facilities to the proper performance of their duties, is not always necessary. In some instances these agencies are conferred upon persons who are

[1] Opinion of Attorney General, June 2, 1855.

directed to keep secret the trust confided to them. Appointments of this character do not necessarily require a recognition on the part of the government of the country, or of the authorities of the place where a commercial agent resides. Commercial agents are sometimes appointed, rather than consuls, for the sole purpose of avoiding the necessity of recognising an authority *de facto* by requesting an exequatur, as application is rarely made by the government for exequaturs for commercial agents.

Mode of application for an exequatur.

45. Should an official recognition by the supreme authority of the country in which a commercial agent resides, or of which his district is a dependency, be thought necessary for the interests of the United States, the commercial agent will request the Department of State to apply for an exequatur. In no case will a commercial agent make such application himself to the foreign government.

A commercial agent prohibited from applying for an exequatur.

Restrictions imposed on commercial agents.

46. Commercial agents can perform no official acts which are forbidden or not tolerated by the government of the place at which they are appointed, and which have reference solely to such government and the citizens or subjects owing it allegiance.[1]

[1] Manuscript Instructions, September 6, 1854.

CHAPTER VI.

CONSULAR AGENTS.

47. Consular agents are defined, by the 31st section of the act regulating the diplomatic and consular systems of the United States, to be consular officers, subordinate to full, principal, and permanent consular officers, exercising powers and performing duties within the limits of consulates or commercial agencies, respectively, at ports or places different from those at which such principals respectively reside.[1] Consular agents defined.

48. When there are, in consular districts, several seaports frequented by merchant vessels of the United States, or places where American interests are concerned, or to which American travellers resort, consular agents should be appointed at such ports or places, with the sanction of the President. In selecting ports or places for the establishment of consular agencies, reference should be had to the convenience and economy of American citizens and other parties most likely to transact business at such agencies. Where consular agents are to be appointed.

49. In all cases where it is practicable, consular agents should be citizens of the United States, and none others should be recommended for appointment except in cases of absolute necessity. Consular agents to be citizens of the U. S.

50. Every consular agent is entitled, as compensation for his services, to such fees as he may col- Compensation of consular agents.

[1] Act of Congress, August 18, 1856.

lect in pursuance of the provisions of the act regulating the diplomatic and consular systems of the United States, or so much thereof as shall be determined by the President; and the principal officer of the consulate or commercial agency within the limits of which a consular agent shall be appointed, shall be entitled to the residue, if any, in addition to any other compensation allowed him by the act above mentioned for his services therein.[1]

Responsibility of consular agents.

51. Consular agents are subject, like other consular officers, to the provisions of law and the instructions of the Department.

Correspondence of consular agents.

52. On all subjects relating to the business of their agencies, they will communicate with the consular officers by whom they are respectively appointed, and to whom they are responsible; such of their communications as are considered of sufficient importance, and in all cases their quarterly reports and returns, will be transmitted by said consular officers to the Department of State.

Termination of the office of consular agent in certain contingencies.

53. No consular agent is permitted to perform any official act after the death, recall, resignation, or withdrawal from office, of the consular officer by whom he was appointed; his own power to act officially being annulled by either of the events here mentioned.

Sub-agents not to be appointed.

54. No consular agent or vice commercial agent is allowed to appoint a sub-agent.

[1] Act of Congress, August 18, section 15.

CHAPTER VII.

CONSULAR PUPILS.

Privileges of consular pupils.

55. It is provided by the third article of the consular convention concluded at Washington on the 23d of February, 1853, between the United States and France, that consular pupils (les élèves consuls) shall enjoy the same personal privileges and immunities as consuls general, consuls, vice consuls, or consular agents; and by the 12th article, that consular pupils as well as consular officers shall enjoy in the two countries all the other privileges, exemptions, and immunities which may at any future time be granted to the agents of the same rank of the most favored nation.[1]

President authorized to appoint consular pupils.

56. By the 7th section of the act of 18th August, 1856, regulating the diplomatic and consular systems of the United States, the President is authorized, whenever he shall think the public good will be promoted thereby, to appoint consular pupils, not to exceed twenty-five in number at any one time, who shall be citizens of the United States, and entitled to compensation for their services, respectively, at a rate not to exceed one thousand dollars per annum, to be determined by the President, and to assign such pupils, from time to time, to such consulates and with such duties as he may think proper; and before the appointment of any such pupil shall be made, it is further provided, that satisfactory evidence by ex-

[1] Statutes at Large, vol. , pp. 994, 999.

amination, or otherwise, shall be furnished of his qualifications and fitness for the office, to the Secretary of State, and by him laid before the President.

Examiners of consular pupils.

57. No consular pupil will be appointed until after he has been examined and found qualified by a board to consist of three examiners, one of them to be the Assistant Secretary of State, and the two others to be selected by the head of the Department.

Examination of consular pupils.

58. If the candidate is in a foreign country, he may be examined by a series of written questions by the minister of the United States in that country and two other competent individuals to be named by that officer; the result of the examination, with the answers of the candidate in his own handwriting, will then be transmitted to the Secretary of State. In all cases, evidence of citizenship must accompany every application for the appointment of a consular pupil.

Qualifications of consular pupils.

59. Candidates for the office must be at least eighteen years of age; they must be able to write a good hand, be thoroughly acquainted with arithmetic, geography, English grammar, and book keeping; must possess a good knowledge of history, especially of the United States. They must have read some work on the Constitution of the United States, and have some general acquaintance with international law. Candidates who possess a knowledge of the language of the country where they are to be employed, will be preferred.

Departure of a consular pupil for his post.

60. As soon as a consular pupil shall have received his commission and passport, he will depart by the most direct and expeditious route for his post, where

he will immediately report himself at the consulate to which he has been assigned for duty.

Duties of consular pupils.

61. Consular pupils will discharge such clerical and other duties of the consulate as may be assigned to them by the principal consular officer, whose instructions in all respects they are expected carefully to observe and obey. They will diligently occupy themselves, when not otherwise employed, in acquiring all the information in their power in relation to the administration of the consular functions, in the study of the language of the country where they reside, and in acquainting themselves with its history, laws, customs, and resources. They will prepare or copy such portions of the consular correspondence with the Department, and such official returns and reports, as the principal consular officer may direct, so as to enable the Department to judge of their ability and also their improvement in the discharge of consular duties, and their fitness for promotion in the consular service.

Report required of the improvement and character of consular pupils.

62. At the close of each year, a report will be made to the Department by the principal consular officer in respect to all the subordinate officers, as required by the 69th section of the General Instructions; and, in addition, such officer will make a detailed statement in regard to the improvement and character of any consular pupil subject to his authority, and the manner in which he has discharged the duties assigned to him by the consular officer.

Quarterly examinations required.

63. At the close of each quarter the consular pupils in China and in Turkey will be examined by the interpreter or dragoman, respectively, of the United States legations in those countries, or by such

other competent persons as may be selected by either legation, in respect to the knowledge and advancement made by the consular pupils in the study of the Chinese or of the Turkish language.

Quarterly reports to be made.

64. The result of such examination must be communicated to the Department of State by the principal consular officer under whose care and authority such pupils are respectively placed, together with exercises written in the Chinese or Turkish characters, and also versions from one or the other of these languages, as the case may be, into English, and the reverse.

Requirements.

65. Diligence in the discharge of their consular duties, obedience to the instructions of the consular officer to whose consulate they are assigned, a courteous bearing towards all persons having business with the consulate, uprightness of conduct in all respects, will be expected from consular pupils. Disobedience, neglect of duty, the abuse of their credit in pecuniary transactions, or exceptionable moral conduct, will be followed by the revocation of their commissions. Consular pupils possessing the requisite qualifications and exhibiting an aptitude for the consular service, who have been faithful in the performance of their consular duties, will, from time to time, be recommended to the President for promotion.

Promotion of deserving consular pupils will be recommended.

CHAPTER VIII.

CONSULAR CLERKS.

Americanclerks to be employed in preference to aliens.

66. Whenever at any consulate or commercial agency of the United States it becomes necessary to employ consular clerks, consular officers will, where it is practicable, receive into their service those individuals only who owe allegiance to this government.

67. Inconveniences may result from this instruction where the English language is not that of the country in which the consulate is situated; but if consular officers are not acquainted with such language at the time of receiving their appointments, it is expected that they will soon acquire a sufficient knowledge of it for the management of their official business.

68. There are many American citizens, at home and abroad, who are anxious to acquire a knowledge of the languages of Europe—a knowledge which would be valuable to the government and to the people of the United States; and it is recommended to United States consular officers to procure such as assistants. Should circumstances prevent a strict compliance with this instruction, the fact will be reported to this Department and the reasons thereof explained.

Names of all subordinate consular officers to be transmitted annually to the Department.

69. At the close of every year, every consular officer will transmit to this Department, according to the form (No. 1) hereto annexed, a list of all persons who may be acting within his consular district and under his jurisdiction, either as deputy or vice consuls, consular agents, clerks, or in any other similar capacity, stating in such returns the name of the individuals, their place of birth, the country to which they owe allegiance, their rank, date of nomination, and the date of the approval thereof by this Department.

CHAPTER IX.

THE DUTIES OF A CONSULAR OFFICER AFTER RECEIVING NOTICE OF HIS APPOINTMENT.

Bonds to be given by consular officers, and conditions thereof.

70. As soon as a consul general, consul, or commercial agent is officially notified of his appointment, he shall, without unnecessary delay, before he receives his commission or enters upon the duties of his office, enter into a bond to the United States, with such sureties (who shall be permanent residents of the United States) as shall be approved by the Secretary of State, in a penal sum of not less than one thousand nor more than ten thousand dollars, and in such form as the President shall prescribe, (see Form No. 2), conditioned for the true and faithful accounting for, paying over, and delivering up of all fees, moneys, goods, effects, books, records, papers, and other property which shall come to his hands, or to the hands of any other person to his use as such consul general, consul, or commercial agent, under any law now or hereafter enacted, and for the true and faithful performance of all other duties now or hereafter lawfully imposed upon him as such consul general, consul, or commercial agent; and in the cases of consuls general, consuls, and commercial agents embraced in schedule B of the act of August 18, 1856, such bond shall contain, by way of further condition, the stipulation required by the 5th section of the said act, which is, that they shall not, while holding their offices, be interested in or transact any business as

merchants, factors, brokers, or other traders to, from, or within the ports, places, or limits of their consulate or commercial agencies, directly or indirectly, either in their own name or in the name or through the agency of any other persons.[1]

In all cases a certificate of the competency of the sureties must be annexed to the bond by the United States attorney for the district in which the sureties reside, before it is transmitted to the Secretary of State, to be approved and deposited with the Secretary of the Treasury.

Mode of proceeding if the consular officer is not in the United States.

71. If the consular officer be not in the United States at the time of his appointment, as soon as he is apprised of the same he shall sign, seal, and transmit to the United States, by the most expeditious conveyance, a bond like the one described in the last section, to be signed and sealed by two sureties, who shall be permanent residents of the United States, and whose competency must be certified as above mentioned, and the instrument then sent to the Secretary of State for his approval; after which it will be deposited with the Secretary of the Treasury.

Commission & passport of a consular officer, and how and when transmitted.

72. When the bond of the consular officer is approved, his commission will immediately be sent to the United States legation, if there be one in the country to which his consular district belongs; otherwise to the consul himself. His consular passport will then be forwarded to him, the receipt of which he will immediately acknowledge, and at the same time inform the Department of the place of his birth and the State of which he was a citizen at the time of his appointment.

[1] Session Statutes, act of Aug. 18, 1856, section 13.

73. If he be a naturalized citizen, he will transmit, with his bond, an attested copy of his certificate of naturalization. Proof of citizenship required.

74. After receiving his passport, he will, with all convenient despatch, depart for his post; giving notice to the Department of the time and place of his departure, and of the vessel in which he embarks. Notice of time and place of departure to be given.

CHAPTER X.

FORMALITIES TO BE OBSERVED BY A CONSUL GENERAL OR CONSUL, AFTER HIS ARRIVAL AT HIS POST.

Information of his arrival to be given by a consular officer to the legation.

75. After the arrival of a consul general or consul at his post, he will give information thereof to the United States legation, if there be one accredited to the government of the country in which his consulate is situated.

Exequatur, how obtained.

76. It is the practice of the Department to send the consular commission to the legation, with instructions to the diplomatic agent to apply for the exequatur by which the consul general or consul is officially recognised and enabled to discharge without interruption his consular duties.

On the receipt of the exequatur, publication thereof to be made.

77. If there be no legation of the United States in the country, the commission will be sent to the consul direct, who will, without delay, transmit it to the proper department, and request an exequatur. In either case, he will inform, in respectful terms, the authorities of the port or district to which he is sent of his appointment; and if he can obtain their consent to his acting as commercial agent before the receipt of his exequatur, he is authorized so to act. As soon as his exequatur is received, he must see that it is made public in the manner usual in the country.

Privileges accorded by a consular exequatur.

78. His commission and exequatur will enable him to exercise and enjoy all the rights, exemptions, privileges, and powers to the same appertain-

ing, and such as are usually granted to consuls in the country in which the consulate is situated; and he will seek for none greater without authority from the Department of State.

Application for archives to be made, and inventory required.

79. Having obtained either his exequatur, or permission to act as commercial agent, he will apply to the person having charge of the consular seal and the archives of the consulate, for their delivery to him; and having made an inventory, jointly with his predecessor if present, of the papers, books, and other effects, he will transmit a copy of such inventory, signed by both parties, or, in the absence of his predecessor, by himself, to the Department. He will likewise transmit to the Secretary of the Treasury a certificate of this fact, (see Form No. 3,) to be executed jointly by himself and the outgoing consular officer, if present; and he may then take charge of the seal, archives, and effects of the consulate.

Disposition of public funds.

80. If there are any public funds in the hands of his predecessor, he will take charge of them, unless they are the proceeds of the effects of an American citizen who died intestate more than a year previous, and which, according to the 2d section of the act of the 14th of April, 1792,[1] should have been remitted to the Treasury of the United States; in which case the consul who received the same shall make the remittance.

Public notice to be given.

81. Having entered on the duties of his office, the consul must immediately give notice thereof to the Department of State, to the minister of the United States in the country in which such consul is appointed, and to the consuls of the United States

[1] Statutes at Large, vol. I, p. 255.

residing in the same country, and the consuls of other countries in the neighboring ports.

Regulations in regard to U. S. arms and flag.

82. The arms of the United States should be placed over the entrance of the consulate, if allowed by the laws of the country; and wherever such custom prevails, the national flag should be hoisted daily for his protection, and as the emblem of his authority. The flag is to be unfurled on the national holidays of the United States, and on public anniversaries and festivals of the country wherein the consulate is situated. It is to be lowered and raised according to custom as a salute on proper occasions, and kept one day at half-mast upon the death of any high public officer at home, American ship-master at the port, or distinguished individual within the district or country where the consular officer resides.

Knowledge of treaties, conventions, tariffs, &c., required.

83. It will be immediately his duty to become conversant with all treaties and conventions existing between the United States and the country wherein he resides, and especially with their respective tariffs and all enactments relating to trade between them; also with the municipal laws and local regulations, and, as far as possible, the language of the country in which his consulate is situated.

Absence forbidden.

84. No consular officer must be absent from his post, or the performance of his duties, for a longer period than ten days at any one time, without the permission previously obtained of the President; and no compensation will be allowed for the time of any such absence in any case, except cases of sickness.[1]

[1] Act of 18th August, 1856.

85. Every consular officer is required to have his office in as central a position as can be conveniently procured, and to keep it open daily during the usual business hours of the place—Sundays, holidays, and anniversaries excepted. Office hours and location of office.

CHAPTER XI.

INSTRUCTIONS RESPECTING THE CORRESPONDENCE OF A CONSULAR OFFICER WITH THE DEPARTMENT OF STATE.

Style of consular despatches.

86. All communications addressed to the Department, as well as enclosures, must be written on cap paper, in a fair, round hand, leaving an inch margin on each side of the page, and the distance between the written lines must correspond with that of the ink lines which are sent to every consular officer with the notice of his appointment. (Form No. 4.)

Agents' despatches.

87. Consuls will instruct their agents to observe the same form.

Despatches to be numbered, and confined to one subject.

88. All despatches must be numbered, beginning at the commencement of each year. Each despatch is, as far as possible, to be confined to one subject. In transmitting enclosures in despatches, the contents of those enclosures are to be briefly stated in the body of the despatch, and attention is to be directed to such points contained in them as may appear to be particularly deserving of notice.

Enclosures in a foreign language to be translated.

89. Should such enclosures be in any foreign language, exact copies of the originals are to be forwarded, and also translations of them if convenient.

Enclosures to be numbered.

90. Wherever it is mentioned in a despatch that a paper is enclosed, a line is to be made in the margin, (thus, $\frac{\text{No. 1}}{\quad}$) and above such line is to be placed the number corresponding to the number of the enclosure.

91. Each series of enclosures is to be numbered anew in each despatch, commencing with No. 1; and when there are more enclosures than one in a despatch, each enclosure is to be numbered in the order in which it is to be read.

Printed enclosures.

92. When printed papers are sent as enclosures in despatches, two copies, if they can be conveniently obtained, should be forwarded.

Endorsements upon despatches and enclosures.

93. All despatches, and the enclosures, are to be endorsed according to the forms hereto annexed, (No. 5 and No. 6.) The endorsement of the despatch will consist of the place where, and the time when it was written, in the first line; the name of the writer in the second; the number of the despatch in the third; the number of its enclosures, if any, in the fourth; the word "Received" in the fifth, with a blank after it for the date of the day on which the said despatch shall be received; and in the sixth and following lines, a short abstract of its contents. The endorsement of the enclosure will state what the enclosure is, (whether it be a letter or any other document,) its date and its number; and it must also contain a reference to the number of the despatch in which it is transmitted.

Despatches to be divided into paragraphs, according to subjects.

94. The divisions of the contents of a despatch into paragraphs, each treating of a separate subject, so far as classification may be convenient, and annotations by marginal analysis of each paragraph, naturally facilitates the proper disposition of consular communications, and the more prompt attention to the requests of consular officers. The marginal notes should *invariably* be placed upon the *external* edge of the paper.

Instructions respecting copies.

95. In making copies of correspondence, the blank space on a leaf at the end of one communication should not be used to commence another. Each document should be on its own sheet, or, if brief, on its own half sheet.

Folding and sealing of despatches.

96. All despatches are to be folded like those sent from this Department. Gum, sealingwax, or wafers are not to be put upon the despatches or the enclosures, but only on the envelopes which cover them. Envelopes containing consular despatches are to be addressed in a manner similar to Form No. 7.

Despatches not to be antedated.

97. Despatches are never to be antedated; and when returns which are ordered to be transmitted "quarterly," "half-yearly," or "annually," cannot be completed on the last day of the quarter, half-year, or year, as the case may be, for want of sufficient information on that date, or for any other adequate reason, the returns are to be made up to that date as soon as practicable thereafter.

When returns are to be made up.

98. Returns ordered to be sent "quarterly" are to be made up to the 31st of March, 30th of June, 30th of September, and 31st of December. Those ordered to be made up half-yearly are to be made up to the 30th of June and 31st of December; and those ordered to be "annually transmitted" are to be made up to the 31st of December.

Mode of transmitting returns.

99. Returns ordered by special instruction, or enactment, or by different sections of the General Instructions, are to be sent as enclosures in distinct despatches, each despatch relating solely to the return as ordered to be made in such instruction, enactment, or section.

100. A return must be rendered on the 31st of December of each year, or as soon after as possible, of the number and dates of the despatches written during the year, and transmitted by the earliest conveyance, and, if practicable, before the consul writes any despatches in the ensuing year. Annual return.

101. A consular officer will only hold correspondence on public matters, independently of that which his official duties require him to conduct with the local authorities and individuals of the place where he resides and officers or others employed in our commercial marine, with the Secretary and Assistant Secretary of State, the Secretary of the Treasury, the Fifth Auditor, the Register of the Treasury, the United States legation in the country where he resides, other consular officers, and with naval or military officers in the service of the United States who may be employed in the neighborhood, and to whom it may be necessary to communicate immediately any event of public interest. Officers with whom consular officers are to correspond.

102. With these instructions the consuls will receive printed forms for their guidance in making the customary commercial and other returns and statement of fees. Forms for commercial returns and statement of fees.

103. The convenience of this Department will be greatly promoted by a careful attention on the part of all consular officers to the foregoing instructions, and a strict compliance with them will be expected. Instructions to be observed.

CHAPTER XII.

COMPENSATION OF CONSULAR OFFICERS.

Compensation of consular officers named in schedules B and C.

104. It is provided by the third section of the act of August 18, 1856, regulating the diplomatic and consular systems of the United States, that consuls general, consuls, and commercial agents, appointed to the ports and places specified in schedules B and C of the same section of the act, shall be entitled to compensation for their services, respectively, at the rates per annum therein specified. It is further provided that if the President shall think proper to appoint a consul to any port or place named in the said schedules B and C for a commercial agent, instead of such commercial agent, or *vice versa*, and an appointment shall be made accordingly, the compensation for such consular officer (without regard to title) shall be the same in any such case as that fixed for such port or place in the schedule embracing the same; and if he shall think the public interests will be subserved by appointing to any such port or place a consul general instead of a consul or commercial agent, and an appointment shall be made accordingly, the compensation for such consul general shall be the same as that fixed for such port or place in the schedule embracing the same.

SCHEDULE B.

Schedule B.

I. CONSULS GENERAL.

Consuls general.

CUBA.

Havana, six thousand dollars.

BRITISH INDIA.

Calcutta, five thousand dollars.

BRITISH NORTH AMERICA.

Quebec, four thousand dollars.

JAPAN.

Simoda, five thousand dollars.

TURKEY.

Constantinople, three thousand dollars.

EGYPT.

Alexandria, three thousand five hundred dollars.

HANSEATIC AND FREE CITIES.

Frankfort-on-the-Main, three thousand dollars.

II. CONSULS.

Consuls.

GREAT BRITAIN.

Great Britain.

Liverpool and London, each seven thousand five hundred dollars.

Melbourne, four thousand dollars.

Hong-Kong, three thousand five hundred dollars.

Glasgow, three thousand dollars,

Mauritius and Singapore, each two thousand five hundred dollars.

Belfast, Cork, Dundee, Demarara, Halifax, Kingston, (Jamaica,) Leeds, Manchester, Nassau, (New Providence,) Southampton, and Turk's Island, each two thousand dollars.

FRANCE.

France.

Havre, six thousand dollars.

Paris, five thousand dollars.

Marseilles, two thousand five hundred dollars.
Bordeaux, two thousand dollars.
La Rochelle and Lyons, each one thousand five hundred dollars.

RUSSIA.

Russia. Moscow, Odessa, Revel, and St. Petersburgh, each two thousand dollars.

SPAIN.

Spain. Matanzas, Trinidad de Cuba, and Santiago de Cuba, each two thousand five hundred dollars.
San Juan, (Porto Rico,) two thousand dollars.
Cadiz, Malaga, and Ponce, (Porto Rico,) each one thousand five hundred dollars.

AUSTRIA.

Austria. Trieste, two thousand dollars.
Vienna, one thousand five hundred dollars.

PRUSSIA.

Prussia. Aix la Chapelle, two thousand five hundred dollars.

CHINA.

China. Canton and Shanghai, each four thousand dollars.
Fouchou, three thousand five hundred dollars.
Amoy and Ningpo, each three thousand dollars.

TURKEY.

Turkey. Beyrut and Smyrna, each two thousand dollars.
Jerusalem, one thousand five hundred dollars.

NETHERLANDS.

Netherlands. Rotterdam, two thousand dollars.
Amsterdam, one thousand dollars.

BELGIUM.

Belgium. Antwerp, two thousand five hundred dollars.

PORTUGAL.

Portugal. Funchal and Oporto, each one thousand five hundred dollars.

DENMARK.

St. Thomas, four thousand dollars. Denmark.
Elsineur, one thousand five hundred dollars.

SARDINIA.

Genoa, one thousand five hundred dollars. Sardinia.

SWITZERLAND.

Basle, two thousand dollars. Switzerland.
Geneva, one thousand five hundred dollars.

SICILIES.

Messina, Naples, and Palermo, each one thousand five hundred dollars. The Two Sicilies.

SAXONY.

Leipsic, one thousand five hundred dollars. Saxony.

BAVARIA.

Munich, one thousand dollars. Bavaria.

TUSCANY.

Leghorn, one thousand five hundred dollars. Tuscany.

WURTEMBURG.

Stuttgardt, one thousand dollars. Wurtemburg.

HANSEATIC AND FREE CITIES.

Bremen and Hamburg, each two thousand dollars. Hanseatic and Free Cities.

BARBARY STATES.

Tangiers, Tripoli, and Tunis, each three thousand dollars. Barbary States.

BRAZIL.

Rio de Janeiro, six thousand dollars. Brazil.
Pernambuco, two thousand dollars.

MEXICO.

Vera Cruz, three thousand five hundred dollars. Mexico.
Acapulco, two thousand dollars.

PERU.

Peru. Callao, three thousand five hundred dollars.

CHILE.

Chile. Valparaiso, three thousand dollars.

BUENOS AYRES.

Buenos Ayres. Buenos Ayres, two thousand dollars.

NICARAGUA.

Nicaragua. San Juan del Sur, two thousand dollars.

NEW GRANADA.

New Granada. Aspinwall, two thousand five hundred dollars.
Panama, three thousand five hundred dollars.

VENEZUELA.

Venezuela. Laguayra, one thousand five hundred dollars.

SANDWICH ISLANDS.

Sandwich Islands. Honolulu, four thousand dollars.
Lahaina, three thousand dollars.

Commercial agents. III. COMMMERCIAL AGENTS.

NICARAGUA.

Nicaragua. San Juan del Norte, two thousand dollars.

ST. DOMINGO, (ISLAND.)

St. Domingo. Port au Prince, two thousand dollars.
St Domingo, (city,) one thousand five hundred dollars.

Schedule C. SCHEDULE C.

Consuls. I. CONSULS.

GREAT BRITAIN.

Great Britain. Bay of Islands, (New Zealand,) Capetown, and Falkland Islands, each one thousand dollars.

AUSTRIA.

Austria. Venice, seven hundred and fifty dollars.

PRUSSIA.

Stettin, one thousand dollars. Prussia.

TURKEY.

Candia and Cyprus, each one thousand dollars. Turkey.

NETHERLANDS.

Batavia, one thousand dollars. Netherlands.

PORTUGAL.

Fayal and Santiago, (Cape de Verdes,) each seven hundred and fifty dollars. Portugal.

DENMARK.

Saint Croix, seven hundred and fifty dollars. Denmark.

SARDINIA.

Spezzia, one thousand dollars. Sardinia.

GREECE.

Athens, one thousand dollars. Greece.

MUSCAT.

Zanzibar, one thousand dollars. Muscat.

BRAZIL.

Bahia, Maranham Island, Para, and Rio Grande, each one thousand dollars. Brazil.

MEXICO.

Matamoras, Mexico, (city,) and Tampico, each one thousand dollars. Mexico.

Paso del Norte and Tabasco, each five hundred dollars.

PERU.

Paita and Tumbez, each five hundred dollars. Peru.

CHILE.

Talcahuano, one thousand dollars. Chile.

NEW GRANADA.

Carthagena and Sabanillo, each five hundred dollars. New Granada.

HONDURAS.

Omoa, one thousand dollars. Honduras.

ECUADOR.

Ecuador. Guayaquil, seven hundred and fifty dollars.

BOLIVIA.

Bolivia. Cobija, five hundred dollars.

URUGUAY.

Uruguay. Montevideo, one thousand dollars.

SOCIETY ISLANDS.

Society Islands. Tahiti, one thousand dollars.

NAVIGATORS' ISLANDS.

Navigator's Islands. Apia, one thousand dollars.

FEEJEE ISLANDS.

Feejee Islands. Lanthala, one thousand dollars.

Commercial agents.

II. COMMERCIAL AGENTS.

PORTUGAL.

Portugal. St. Paul de Loanda, (Angola,) one thousand dollars.

LIBERIA.

Liberia. Monrovia, one thousand dollars.

GUINEA.

Guinea. Gaboon, one thousand dollars.

ST. DOMINGO, (ISLAND.)

St. Domingo. Cape Haytien, one thousand dollars.
Aux Cayes, five hundred dollars.

RUSSIA IN ASIA.

Russia. Amoor River, one thousand dollars.

Compensation of consular officers who are not embraced in schedules B and C.

105. It is provided by the fourth section of the same act, that consuls general, consuls, and commercial agents, not embraced in schedules B and C, shall be entitled, as compensation for their services, to such fees as they may collect in pursuance of the provisions of this act, respectively.

106. The eighth section of the same act provides, that no consul general, consul, commercial agent, or consular pupil, respectively, appointed to any such office after the said act shall take effect, shall be entitled to compensation for his services therein except from the time when he shall reach his post and enter upon his official duties to the time when he shall cease to hold such office, and for such time as he shall be actually and necessarily occupied in receiving his instructions, not to exceed thirty days, and in making the transit between the place of his residence when appointed and his post of duty at the commencement and termination of the period of his official service, for which he shall in all cases be allowed and paid, unless such consul general, consul, commercial agent, or consular pupil, shall have resigned, or been recalled therefrom for any malfeasance in his office, in which case no such officer as is referred to in this section shall be allowed compensation for the time so occupied in such transit at the termination of the period of his official service.

When compensation commences and terminates.

107. No person holding the office of consul general, consul, commercial agent, or consular pupil, is deemed to hold any such office after his successor shall be appointed and has actually entered upon the duties of his office at his post of duty, nor after his official residence at such post shall have terminated if not so relieved.

Termination of the consular office.

108. No compensation, by fees or otherwise, is allowed to any consul general, consul, or commercial agent, not embraced in schedules B and C of this chapter, and who may be appointed hereafter in

No compensation allowed to consular officers not embraced in schedules B and C while receiv-

ing instructions or in transit.

accordance with the fourth section of the above-mentioned act, during the time occupied in making the transit between the place of his residence and his post of duty at the commencement and termination of the period of his official service; nor to any vice consul, vice commercial agent, deputy consul, or consular agent, for the time so occupied in receiving instructions or in such transit as aforesaid.

Compensation of consular officers when performing diplomatic functions.

109. It is provided by the eleventh section of the above mentioned act, that for such time as any consular officer shall be authorized, pursuant to the provisions of the said act, to perform diplomatic functions in the absence of the regular diplomatic officer in the country to which he shall be appointed, he shall be entitled, in addition to his compensation as such consular officer, to receive compensation for his services, while so authorized, at the rate allowed by the same act for a secretary of legation in such country.

Exercise of diplomatic functions, when forbidden, and when allowed.

110. But no consular officer shall exercise diplomatic functions, or hold any diplomatic correspondence or relation on the part of the United States, in, with, or to the government or country to which he shall be appointed, or any other country or government, when there shall be in such country any officer of the United States authorized to perform diplomatic functions therein, nor in any case, unless expressly authorized by the President so to do.

Compensation of vice consuls and vice commercial agents.

111. It is provided by the fourteenth section of the act above mentioned, that no compensation shall be allowed for the services of any vice consul or vice commercial agent beyond nor except out of

the allowance made by the said act for the principal consular officer in whose place such appointment shall be made.

Compensation of vice consuls, vice commercial agents, and consular agents.

112. The fifteenth section of the same act provides, that every vice consul and vice commercial agent shall be entitled, as compensation for his services as such, to the whole or so much of the compensation of the principal consular officer in whose place he shall be appointed as shall be determined by the President, and the residue, if any, shall be paid to such principal consular officer; and every consular agent shall be entitled, as compensation for his services, to such fees as he may collect in pursuance of the provisions of the act, or so much thereof as shall be determined by the President; and the principal officer of the consulate or commercial agency, within the limits of which such consular agent shall be appointed, shall be entitled to the residue, if any, in addition to any other compensation allowed him by the act for his services therein.

Compensation provided by the act to be in full for all services, &c.

113. It is provided by the twentieth section of the said act that the compensation provided by it shall be in full for all the services and personal expenses which shall be rendered or incurred by the officers or persons respectively for whom such compensation is provided, of whatever nature or kind such services or personal expenses may be, or by whatever treaty, law, or instructions such services or personal expenses so rendered or incurred are or shall be required; and no allowance, other than such as is provided by the act, shall be made in any case for the outfit or return home of any such officer or person; and no consular officer shall, nor shall any

No outfit allowed.

Consular offi-

cers forbidden to charge a commission for receiving or disbursing extra wages, or to be interested in profits from the relief and passages of seamen.

person under any consular officer, make any charge or receive, directly or indirectly, any compensation, by way of commission or otherwise, for receiving or disbursing the wages or extra wages to which any seaman or mariner shall be entitled who shall be discharged in any foreign country, or for any money advanced to any such seaman or mariner who shall seek relief from any consulate or commercial agency; nor shall any consular officer, or any person under any consular officer, be interested, directly or indirectly, in any profit derived from clothing, boarding, or otherwise supplying or sending home any such seaman or mariner. Such prohibition as to profit is not to be construed to relieve or prevent any such officer who shall be the owner or otherwise interested in any ship or vessel of the United States from transporting in such ship or vessel any such seaman or mariner, or from receiving or being interested in such reasonable allowance as may be made for such transportation, under and by virtue of the fourth section of the act entitled "An act supplementary to the act concerning consuls and vice consuls, and for the further protection of American seamen," approved February 28, 1803.

Exception.

Absence of a consular officer from his post, and when compensation may be allowed for absence.

114. It is provided by the nineteenth section, that no consul general, consul, commercial agent, consular agent, or consular pupil shall be absent from his post or the performance of his duties for a longer period than ten days at any one time, without the permission previously obtained of the President; and that no compensation shall be allowed for the time of any such absence in any case, except cases of sickness.

115. It is enacted by the twenty-first section, that no compensation provided in the said act for any such officer as is mentioned in schedules B and C of the third section of the act, or any appropriation therefor, shall be applicable to the payment of the compensation of any person appointed to or holding any such office after the act shall take effect who shall not be a citizen of the United States; nor shall any other compensation be allowed in any such case.

No compensation allowed to consular officers named in schedules B and C unless citizens of U. S.

CHAPTER XIII.

CONSULAR FEES.

Prior acts in respect of fees repealed.

116. It is provided by the 33d section of the act of August 18, 1856, that all acts and parts of acts be annulled and repealed whereby any such fees are fixed and allowed as are contemplated by the 17th section of the said act.

Law relating to fees.

117. The provisions in respect to consular fees hereafter to be charged are contained in the 16th, 17th, 18th, 28th, and 33d sections of the said act.

President authorized to prescribe the tariff of fees.

118. The 16th section of the act authorizes the President to prescribe, from time to time, the rates or tariffs of fees to be charged for official services, and to designate what shall be regarded as official services, besides such as are expressly declared by law, in the business of the several legations, consulates, and commercial agencies, and to adapt the same, by such differences as may be necessary or proper, to each legation, consulate, or commercial agency, and to report such rates or tariffs annually to Congress.

Consular officers required to collect the prescribed fees.

119. It is made the duty of all officers and persons connected with the consulates or commercial agencies of the United States to collect, for official services, such, and only such fees as may be prescribed for their respective consulates and commercial agencies.

120. All consular officers are required to give receipts for all fees which shall be collected for their official services respectively, expressing the particular services for which the same were collected. Receipts for fees to be given.

121. Every consular officer is required to number all receipts given by him for fees received for official services in the order of their dates, beginning with number one at the commencement of the period of his service, and on the first day of January in every year thereafter. Receipts to be numbered.

122. He is also required to keep a book, in which he shall register all fees so received by him in the order in which they shall be received, specifying in such register each item of service and the amount received therefor, from whom and the dates when received, and if for any service connected with any ship or vessel, the name thereof, and indicating what items and amounts are embraced in each receipt given by him therefor, and numbering the same according to the number of the receipts respectively, so that the receipts and register shall correspond with each other; and in such register he must specify the name of the person for whom and the date when he shall grant, issue, or verify any passport, certify any invoice, or perform any other official service, in the entry of the receipt of the fees therefor, and also number each consular act so receipted for with the number of such receipt as shown by such register. Fee book to be kept.

123. All fees collected by the consuls general, consuls, and commercial agents mentioned in schedules B and C, and by vice consuls and vice commercial agents appointed to perform their duties, or by any Fees to be accounted for to the Secretary of the Treasury.

other persons in their behalf, must be accounted for to the Secretary of the Treasury, and held subject to his draft or other direction.

Sworn transcript of fee book to be furnished.

124. Every consular officer, in rendering his account or report of fees received, to the Secretary of State, is required to furnish a full transcript of the register which he is required by law to keep, under oath or affirmation that the same is true and correct, and that the same contains a full and accurate statement of all fees received by him, or for his use, for his official services as such consular officer, to the best of his knowledge, during the period for which the same shall purport to be rendered.

Oath, by whom to be administered.

125. This oath or affirmation may be taken before any person having authority to administer oaths and affirmations at the port or place where such consular officer resides.

Penalty for the commission of perjury.

126. It is also provided that if any consular officer shall wilfully and corruptly commit perjury in any such oath or affirmation, within the intent and meaning of any act of Congress now or hereafter made, he may be charged, proceeded against, tried, convicted, and dealt with in the same manner in all respects as if such offence had been committed in the United States before any officer duly authorized therein to administer or take such oath or affirmation, and shall be subject to the same punishment and disability therefor as are or shall be prescribed by any such act for such offence.

Consular officers appointed in accordance with section 4th of the act of August 18th to

127. All consuls general, consuls, commercial agents, and consular agents as are allowed for their compensation the whole or any part of the fees which they may collect pursuant to the provisions of the act,

and all vice consuls and vice commercial agents appointed to perform the duties of said consuls general, consuls, and commercial agents, as are allowed for their compensation the whole or any part of such fees as aforesaid, are required to make returns to the Secretary of State of all such fees as they, or any other persons in their behalf, shall so collect, in the manner prescribed in the 139th and 156th sections of these Instructions; and all such fees as shall be so collected, accounted for, and reported, are to be reported annually to Congress.

make return of fees to the Secretary of State.

Fees to be annually reported to Congress.

128. It is provided also that if any consular officer shall collect, or knowingly allow to be collected, for any official service, any other or greater fees than such as shall be allowed pursuant to the provisions of the said act for such services, he shall, besides his liability to refund the same, be liable to pay to the person by whom or in whose behalf the same shall have been paid, treble the amount of said unlawful charge so collected, as a penalty therefor, to be recovered by such person in any proper form of action to and for the use of such person, besides costs of suit.

Penalty for collecting unlawful fees.

129. In any such case the Secretary of the Treasury is authorized to retain out of the compensation of such officer the amount of the overcharge and penalty, and charge the same to the officer in account, and thereupon to refund the unlawful charge and pay the penalty to the person entitled to the same, if he shall think proper so to do.

Unlawful charges to be refunded.

130. It is further provided, that if any consul general, consul, or commercial agent mentioned in schedules B and C, or any vice consul or vice com-

Penalty for the omission to collect fees.

mercial agent appointed to perform the duty of any such officer mentioned in said schedules, shall omit to collect any fees which he shall be entitled to charge pursuant to the provisions of the act for any official service, he shall be liable to the United States therefor as though he had collected the same, unless for sufficient reason the Secretary of the Treasury shall think proper to remit the same.

Application to be made by American shipmasters for the performance of consular services; payment of fees required.

131. By the same act it is made the duty of every master and commander of a ship or vessel of the United States, whenever he shall have occasion for any consular or other official service which any consular officer of the United States shall be authorized by law or usage officially to perform, and for which any fees shall be allowed by the said rates or tariffs of fees as aforesaid, to apply to such one of the said officers to perform the service as may then be officially in charge of the consulate or commercial agency, if any there be where such service shall be required; and the master or commander shall pay to the consular officer such fees as shall be allowed for the service by the provisions of the act.

Penalty for the omission of shipmasters to obtain consular services.

132. If any master or commander of an American vessel omits to make such application, he is liable to the United States for the amount of fees lawfully chargeable for such services, as though the said services had been performed by a consular officer.

Copies of consular receipts for fees to be furnished to collectors.

133. It is made the duty of all owners, agents, consignees, masters, and commanders of ships and vessels, to whom any receipt for fees shall be given by any consular officer, to furnish a copy thereof to the collector of the district in which such ships and vessels shall first arrive on their return to the United States.

Receipts, and statement of certified invoices to be furnished to Secretary of the Treasury.

134. It is also the duty of every collector to forward to the Secretary of the Treasury all such copies of receipts as shall have been so furnished to him, and also a statement of all certified invoices which shall come to his office, giving the dates of the certificates and the names of the persons for whom and of the consular officers by whom the same were certified.

Ships' papers to be retained by consular officers till payment of fees.

135. All consular officers are authorized and required to retain in their possession all the papers of ships and vessels of the United States which shall be deposited with them as directed by law, till payment be made of all demands and wages on account of such ships and vessels.

Copy of consular tariff to be conspicuously posted in consulates.

136. All consular officers will at all times keep in their offices a copy of such rates or tariffs as shall be in force, in a conspicuous place, and subject to the examination of all persons interested therein.

Consular tariff to be annexed by collectors to every ship's clearance.

137. It is also the duty of the collectors of the several districts, whenever any clearance is granted to any ship or vessel of the United States, duly registered as such and bound on any foreign voyage, to annex thereto in every case a copy of the rates or tariffs of fees which are allowed in pursuance of the provisions of the above-mentioned act.

Requirements of law to be faithfully observed.

138. Consular officers will give careful heed to the faithful observance of these enactments; and, in connection with the requirements of law and the instructions which are contained in this chapter, they will give especial attention to the tariff of fees prescribed by the President, which is annexed to these instructions.

Reference to consular tariff.

CHAPTER XIV.

RECORD BOOKS AND ARCHIVES OF THE CONSULAR OFFICE.

Record books at inland consulates.

139. The following record books are to be kept at all inland consulates of the United States:

Despatch book.

A *despatch book*, into which are to be copied all official communications written by the consular officer to the Department of State.

Letter book.

A *letter book*, into which are to be copied all other official communications written by the consular officer.

Fee book.

A *fee book*, in which the consular officer shall register all fees received by him in the order in which they shall be received, specifying in such register or fee book each item of service; the amount received therefor; from whom and the date when received; and indicating what items and amounts are embraced in each receipt given by him therefor, and numbering the same according to the number of the receipts, respectively, so that the receipts and register shall correspond with each other. The consular officer will specify the name of the person for whom and the date when he shall grant, issue, or verify any passport, certify any invoice, or perform any other official service, in the entry of the receipt of the fees therefor in such register; and also number each consular act so receipted for with the number of such receipt as shown by such register. The fee book is to be ruled and kept in accordance with Form No. 8, or No. 9.

A *passport book*, in which are to be registered all passports issued by the consular officer, in accordance with Form No. 10, and the instructions prescribed in the chapter on Passports. Passport book.

An *invoice book*, to be ruled and kept in accordance with Form No. 11 and with the instructions prescribed in the chapter on the Verification of Invoices. Invoice book.

A *miscellaneous record book*, for the entry of those official papers and records which cannot conveniently be classified and entered in the record books above named. Miscellaneous records.

A *register of official letters received at the consulate*, which shall embrace the following information: name of the writer, number and date of letter, when received, its import, and remarks thereon, as prescribed in Form No. 12. Register of letters received.

A *register of official letters sent from the consulate*, stating the date and import of the letter and the name of the person to whom sent, as prescribed in Form No. 13. Register of letters sent.

140. In seaports the following additional books will be used: Record books at seaports.

A *record book of commercial returns*, to be kept in accordance with Form No. 14, in which must be stated, in respect of vessels, the number, date of arrival, class, name, and tonnage of all American vessels, where belonging, whence from, whither bound, when and where built, master and owners' names; and in respect of cargoes, both inward and outward, under distinct heads, as nearly as possible, the description, quantity, and value of the same, and where produced or manufactured. Book of commercial returns.

Seamens' register. A *seamens' register*, in which shall be recorded a detailed list of all seamen shipped, discharged, or deceased, at the consulate or commercial agency, and the payments made on account of each, according to Form No. 15.

Relief book. A *relief book*, showing the number and names of all seamen relieved, from what vessel discharged, date and cause of discharge, and date of leaving the consulate; embracing also the several amounts disbursed on their account, as particularly described in Form No. 16.

Quarterly account book. A *quarterly account cnrrent book*, in which shall be recorded the account current furnished quarterly to the Fifth Auditor, as per Form No. 17.

Protest book. A *protest book*, for the entry of notes of marine protests, in accordance with Form No. 18.

Extended protests. A *book for the entry of extended protests.* (See Form No. 19.)

Journal. A *daily journal* is to be kept, as prescribed in Form No. 20.

Books to be indexed. 141. When a paper of any description shall be entered or recorded in either of the said books, the same shall be indexed by a reference both to the name of the author and the subject of the paper.

Letters received to be labelled and bound. 142. The answers received to official letters, and all other papers transmitted to the consulate, intended to be permanently kept there, shall be put in a proper place, labelled according to their subject-matter, until a sufficient number shall accumulate to form a volume; when they shall be bound and indexed in the same manner as is directed with respect to other records.

Books to be paged. 143. All the consular books must be regularly paged; but where blanks occur (as in the book of

original letters, from the covers and unwritten pages) a cross must be made over the blank page, and it is not to be numbered.

144. The consular books are to be kept distinct from those of the consul's private affairs; and if the consul is at liberty to transact business, his consular business should, if possible, be transacted in a separate apartment from that in which his ordinary commercial or other affairs are carried on, designated by the arms of the United States exhibited at its entrance wherever such an exhibition of the arms is not prohibited by the local regulations.

Consular books to be kept distinct from private books.

Office and arms.

145. All consular officers are instructed to take care that the archives are kept in proper order; and with this view, as well as to facilitate reference to previous correspondence, they will keep in their offices registers of all the documents, papers, letters, and books which have been or which may be at any time received, and also of those forwarded by them on matters connected with their official duties. (See Forms 11 and 12.)

Keeping of archives.

146. The originals of all despatches and letters addressed to a consular officer, and copies of all that are written by him in his official capacity, including all official reports and returns, all books presented to the consulate, or sent to it by the Department, also all the record books, as described in this chapter, are to be considered as official documents, and are to be deposited amongst the consular archives, after being duly registered, and transferred with the effects of the consulate, together with the seal, press, arms, and flag, and all other property belonging to the United States, to his successor in office.

Transfer of archives.

CHAPTER XV.

CONSULAR REPORTS AND RETURNS.

Foreign commercial regulations to be laid before Congress.

147. By an act of Congress approved August 16, 1842, it is made the duty of the Secretary of State to lay before Congress, annually, at the commencement of its session, in a compendious form, all such changes and modifications in the commercial systems of other nations, whether by treaties, duties on imports and exports, or other regulations, as shall have come to the knowledge of the Department.[1]

Other commercial information to be communicated.

148. This act was so amended by an act approved August 18, 1856, relating to foreign regulations of commerce, as to make it the duty of the Secretary of State to lay before Congress, as a part of said report, all *other* commercial information communicated to the Department by consular and diplomatic agents of the government abroad, or contained in the official publications of other governments, which shall be deemed sufficiently important.[2]

Consular officers required to transmit commercial information.

149. To enable the Secretary of State to make such report, it is declared to be the duty of consuls and commercial agents in foreign countries to procure and transmit to the Department of State, authentic commercial information respecting said countries, of such character and in such manner and form, and at such time as may, from time to time, be prescribed by the Department.

[1] Statutes at Large, vol. V, p. 507.

[2] Session Acts—act approved August 18, 1856.

150. It is also made the duty of the Secretary of State to specify in the report the names of any of the said officers who may have been remiss in their duty enjoined by the said act.

Names of consular officers remiss in their duty to be reported to Congress.

151. By the 22d section of the act regulating the diplomatic and consular systems of the United States, it is made the duty of the Secretary of State to prescribe such regulations, and make and issue such orders and instructions, not inconsistent with the Constitution or any law of the United States, in relation to the duties of all diplomatic and consular officers, the transaction of their business, the rendering of accounts and returns, the payment of compensation, the safekeeping of the archives and public property in the hands of all such officers, the communication of information, and the procurement and transmission of the products of the arts, sciences, manufactures, agriculture, and commerce, from time to time, as he may think conducive to the public interests; and all such officers are required to conform to such regulations, orders, and instructions. He is likewise required to publish official notifications, from time to time, of such commercial information communicated to him by such diplomatic and consular officers as he may deem important to the public interests, and to report to Congress, at least once in each year, a synopsis of so much of the information on all subjects which shall be so communicated to him as he may deem valuable for public information.

Secretary of State required to prescribe regulations for the government of diplomatic and consular officers.

Information received from government agents to be published, and also to be reported to Congress.

Reports to be made to the Secretary of State.

152. Consular officers will therefore transmit, as soon as they are published, statements of all changes in the commercial systems of the governments to

Character of information required.

which they are accredited, copies of all commercial regulations, light-house notices, revenue laws, acts and regulations respecting warehouses, tonnage duties, and port dues, all tariffs and modifications thereof, and all enactments, decrees, royal orders, or proclamations which in any manner affect the commercial, agricultural, mining, or other important interests of the United States. All despatches communicating information of this character must be endorsed "commercial information," and be strictly confined to this subject.

Endorsement of commercial despatches.

Annual report of consular officers; information required.

153. All consular officers will forward to this Department, at the close of each year, ending September 30, so that the information can be communicated to Congress at its session immediately thereafter, a report on the trade of the consular districts in which they respectively reside during the preceding year, specifying the articles of import and export, the countries which supply the former and receive the latter, the comparative increase or decrease in the amounts of the same, and the causes in both cases for either; the general regulations of trade and their effects, the average market prices within the year of the staples of export and import, and the average rates of freight to the United States. They will also designate articles prohibited to be imported into their consular districts, whether from the place of their growth or production or from other places, specifying what changes have occurred since their last reports; and also all privileges of importation or restrictions thereon, if such there be, and to what vessels they apply, and all differences in duties on articles imported in foreign or national ves-

sels; all tonnage duties and other port dues, and all warehouse and sanitary regulations, and those relating to entry or clearance, where such exist and have been subjected to modification since their last reports. They will also communicate detailed information touching the employment, in their consular districts, of the capital of our citizens, whether employed in industrial, agricultural, scientific, or commercial pursuits; they will transmit, in like manner, tabular or other statements touching the consumption of the staple products of the United States as well as of other countries; the amount of those articles imported into such districts in American vessels, and the amount of foreign tonnage employed in such trade.

Character of information to be communicated.

154. They will communicate any useful and interesting information relating to agriculture, manufactures, population, and public works. In all that relates to scientific discoveries, to progress in the useful arts, and to general statistics in foreign countries, consular officers are expected to communicate freely and frequently with the Department; and to note all events occurring within their consular districts which affect beneficially or otherwise the navigation and commerce of the United States; the establishment of new branches of industry, the increase or decline of those before established, and communicate all the information which they may be enabled to obtain calculated to benefit our commerce and other interests, and the best means of removing any impediments that may have retarded their advancement.

Quarterly commercial reports.

155. All consular officers at seaports are instructed to transmit, quarterly, a report in accordance with Form No. 14, stating the number, date of arrival, class, name, and tonnage of all American vessels entering the ports at which they reside, the places where from, when and where built, where belonging and where bound, the owner and master's names; and in relation to their cargoes, both inward and outward, where produced, where manufactured, description, quantity, and value.

Transcript of fee book.

156. All consular officers will transmit, quarterly, a report in accordance with Form No. 8, or No. 9, according as the said consuls are stationed at ports or inland places, stating in detail the name of the party for whom any official service whatever is rendered, and also the nature of the service and the authorized fee received therefor, the name of the signer of all oaths to invoices, place and date of invoice, the kind and value of all invoices of goods, and where produced or manufactured; and in case the service is on account of an American vessel or her crew, the nature of the service rendered, and the fee received therefor. This report must be an exact transcript of the fee book, as required by the 18th section of the act of August 18, 1856, and the 139th section of the Instructions.

Death of American citizens to be reported.

157. All consular officers will transmit quarterly the names of all American citizens, whether seamen or otherwise, dying within their consulates, in accordance with Form No. 21, which exhibits the name of the individual, where from, and where belonging, and in case of seamen, whether at sea or in port, and to what vessel belonging, if any, expenses incurred, value of effects, and disposition thereof.

158. Consular officers at ports will also transmit quarterly a statement of relief afforded to destitute seamen during the quarter, in accordance with Form No. 16, stating the name of the seamen relieved, the name of the ship, master, owner, to what port belonging, date and cause of discharge or of leaving, amount of wages received, and of wages refunded to seamen, amount expended for board, clothes, medical aid, funeral expenses, and passage. Quarterly relief report.

Reports to the Secretary of the Treasury.

159. It is made the duty of every consular officer, by the 27th section of the act approved August 18, 1856, to furnish to the Secretary of the Treasury, as often as shall be required, the prices current of all articles of merchandise usually exported to the United States from the port or place in which he shall be located. Prices current to be sent to the Secretary of the Treasury.

160. Consular officers, accordingly, residing at ports from whence there is a regular communication by steam vessels, are required to transmit by every steamer, to the Secretary of the Treasury, prices current of the staple articles of foreign production exported from the country of their residence to the United States, and, where practicable, the prices of merchandise generally exported. Where the communication is only by sailing vessels, the prices current will be furnished monthly. When to be transmitted.

161. Consular officers are also requested to transmit, at least once a month, if opportunity offers, to the Secretary of the Treasury, a statement of the rates at which any depreciated currency of the country in which they reside is computed in United Currency report to be made monthly.

States or Spanish dollars, or in silver or gold coins of other countries; observing, in all cases of an estimate of the currency in such foreign coins, that their weight and standard should be made known to the Department.

Rates of exchange to be reported monthly.

162. Consular officers will report monthly, to the Treasury Department, the rates of exchange prevailing between the ports or places at which they reside and the following places, to wit: London, Paris, Amsterdam, and Hamburg; also New York, and other principal ports in the United States; and they will keep the Department regularly and fully advised of the course and progress of trade from the several ports of their consulates to the United States.

Quarterly report to the Secretary of the Treasury.

163. Consular officers will transmit, quarterly, information on the following points, to the Secretary of the Treasury, not only in reference to the trade of the place of their residence, but that of the neighboring country or towns with which it may be connected commercially, or through which their merchandise may be shipped to the United States:

Discounts.

164. The usual terms on which merchandise is bought and sold, whether on credit or for cash. The usual discounts allowed, either from custom or in consideration of cash payment, or from other cause; whether such discounts are uniform, and, if not, whether they vary in the same, or only on different descriptions of merchandise; and whether such discounts, or any of them, are regarded as a bonus or gratuity to the buyer for his benefit; whether he purchases for himself or ships merchandise to order and for account of others.

165. The bounties allowed on articles exported, and for what reason, and under what circumstances; whether they are the same on exports by national or foreign vessels; if not, the difference; the rates of such bounties; and how estimated, whether on weight, measure, gauge, price, or value. Bounties.

166. The customary charge of commissions for purchasing and shipping goods of different descriptions; the usual brokerage on the purchase or sale of merchandise; whether it is paid by the buyer or seller, or by both. Commissions.

167. The usual and customary expenses in detail attending the purchase and shipment of merchandise, including commissions, brokerage, export duty, dock, trade, or city dues, lighterage, porterage, labor, cost of packages, covering or embaling, cooperage, gauging, weighing, wharfage, and local imposts or taxes of any kind; which of the foregoing, or other items, are usually included in the price of the article, or become a separate charge to be paid by the shipper or purchaser. Other expenses.

168. In the case of merchandise purchased at the interior places, or in other countries having no shipping ports of their own, for shipment to foreign countries, through the ports of the consulate, the customary expenses attending the transportation from such interior places or countries to the port of shipment, including all transits, exports, or import frontier duty, and every other charge up to the arrival at such port, and the ordinary expenses attending the shipment thereof. Transportation.

169. Consular officers will forward regularly, and as often as practicable, to the general appraisers re- Prices of merchandise.

siding at New York and San Francisco, such prices current, manufacturers' statements of prices, or merchants' printed circulars of prices, and such other general information as may be useful to appraisers in the discharge of their duties.

Other details deemed useful.

170. Consular officers will include in their several reports, in detail, information on any other points which they may think proper, in order to an ascertainment of the value of merchandise forwarded to the United States, and the assessment of the legal duties, forwarding any printed or other documents which they may think desirable that the Department should possess.

Commercial information required by Congress.

171. Increased interest in the statistics of foreign commerce, evinced by recent and repeated calls by Congress for all such information as may have come into the possession of this Department, has caused more than ordinary care in the preparation of instructions upon this point, which it is hoped may not be without adequate response from the consular officers of the government abroad.

CHAPTER XVI.

VERIFICATION OF INVOICES.

Consular certificates to invoices required.

172. The revenue laws of the United States require two consular certificates only to invoices of foreign merchandise imported into the country, (the owners of which reside abroad)—one authenticating the invoice, the other as to the value in Spanish or American dollars of the currency in which the invoice is made out.

Where invoices are to be verified.

173. Where consular certificates to invoices of goods destined for the United States are required, they are to be granted only by the consular officer within whose consular jurisdiction such goods have been manufactured or prepared for exportation. A practice, it is understood, has extensively prevailed of transmitting invoices to a consular officer at the port of shipment for the usual consular certificates, whose certificate must often necessarily be given without due knowledge of their accuracy or details. Thus, invoices of goods manufactured or prepared for shipment in Switzerland have sometimes heretofore been sworn to at Havre; invoices from Lyons have been verified at Marseilles; and those from the Prussian provinces of the Rhine, at the ports of Holland and Belgium. It is manifest that great abuses must spring from such a practice, the meaning and intent of the law being to require those who have an accurate knowledge of the contents of in-

voices, and the prices of goods comprising the same, personally to depose to their valuation. All consular officers, therefore, are strictly enjoined to conform to this rule, and report to the Treasury Department any violation of it which may come within their knowledge.

Forms of certificates to invoices.

174. Under the provisions of the act of Congress of 1st March, 1823, the invoices of all imported goods subject to *ad valorem duty* belonging to persons not residing in the United States, must be sworn to and verified by consular certificates, according to Forms No. 22 or No. 23, as the case may be; the oath must be taken by the owner or manufacturer of the goods, or a member of the firm owning or manufacturing them, and not by a clerk or other subordinate.

Magistrate's certificate to be authenticated.

175. In all cases where the oaths to invoices are not taken before the United States consul, but before some public officer duly authorized to administer oaths in the country where the goods shall have been purchased, the official certificate of such officer must be authenticated by a consular officer of the United States.

Mode of verification when there is no consular officer in the country.

176. If there be no consular officer of the United States in the country from which the merchandise shall have been imported, the authentication must be executed by a consul of a nation at the time in amity with the United States, if there be any such residing there. If there be no such consul, the authentication must be made by two respectable merchants, if any such there be, residing at the port from which the merchandise shall have been imported.

177. It is proper that the oath taken by foreigners should be administered to them, not only in their own language, so that they may fully understand the nature and import of it, but also in the form practised in their own country, which would probably be considered by them as more solemn and of a more binding nature than if administered in a form to which they have not been accustomed. Oaths to foreigners, how to be administered.

178. The attention of consular officers is also directed to the 8th and 11th sections of the act of Congress of the 1st March, 1823, in which it will be seen that a consular certificate is required in all cases of invoices of goods exported by the *manufacturers* thereof, in whole or in *part* for their account, notwithstanding another owner in part may reside in the United States. This provision of the law of 1823, there is reason to believe, has been hitherto overlooked in many instances. What invoices are to be verified.

179. If a consular officer ascertains and has reliable evidence of the falsity of an oath, administered either by himself or by a local magistrate whose certificate he has authenticated, he should notify the Treasury Department, which will transmit to him the original invoice and oath, to be used, if deemed expedient, in a prosecution for perjury. Duty of a consular officer in cases of perjury

180. It is to be remarked that, by the act of 3d March, 1801, invoices of all goods imported into the United States *subjected to a duty ad valorem* are required to be "made out in the currency of the place or country from whence the importation shall be made; and shall contain a true statement of the actual cost of such goods in such foreign currency or currencies, without any respect to the value of the coins Currency certificate.

of the United States, or foreign coins which now are, or shall be, by law, made current within the United States in such foreign place or country." Hence, invoices of free goods are not required to be made out in the currency of the country from whence the goods may be imported; but whenever invoices of such goods may be made out in the currency of the country, and said currency is depreciated, and its value not fixed by any law of the United States, a consular certificate of the value of such currency must, as before intimated, accompany the same.

Depreciated currency.

Invoices of free goods.

181. There is nothing in the law or instructions of the Treasury Department to prohibit invoices of free goods from being made out in the currency of the United States, or that of any other country where its value is fixed by our laws.

Certificate in cases of depreciated currency.

182. Invoices of ad valorem or free goods, when made out in a foreign depreciated currency, or a currency the value of which is not fixed by the laws of the United States, whether the importer or owner resides in this country or abroad, must in each case be accompanied by a consular certificate, showing the value of such currency in Spanish or United States silver dollars, according to Form No. 24.

Mode of making a consular certificate.

183. Consular officers will either make their certificate upon the invoice itself, or, where it is attached as a separate document, give such details as to the names of the shippers, consignees, vessels and captains, the nature of the merchandise, and the total amount, as will fully identify the invoice annexed, instead of giving, as sometimes heretofore, their certificates in such general terms as to admit of the deception, which the Department is informed has

been practised, of substituting another invoice in place of the one for which the certificate was originally issued.

Caution to be observed in granting certificates.

184. They are also especially enjoined to observe great caution in granting certificates, where application shall be made for the same, for former shipments which were unaccompanied by said certificates, until they are fully satisfied by the correctness of the invoice presented to them for that purpose, since the very omission of the certificates with the invoices at the time of entry is, in many cases, presumptive evidence that a fraud was intended, if not practised, upon the public revenue.

Penalty for omission of consular certificates to be enforced.

185. Applications are frequently made to the Treasury Department for permission to enter merchandise where the invoices are not accompanied by the needful consular certificates in the cases where such certificates are by law required. That Department has heretofore acted with great leniency and indulgence in such cases, but experience has shown the necessity for a more rigid course in future; and, in all cases where such consular certificates should accompany the invoices, any penalty which may be incurred for want of them will be regularly enforced.

Undervaluation.

186. The consuls abroad, by due attention and vigilance, can do much towards checking and preventing the numerous frauds which are undoubtedly practised upon the revenue, if they will report to the collectors of the customs of the United States all those invoices where, in their opinion, undervaluation has been made, and by otherwise keeping the collectors or this Department generally and fully advised on the subject; and they are earnestly

requested to do so, and to consider it one of the most important services which they can render in connection with the faithful collection of the revenue.

Details of invoices to be examined.

187. An erroneous impression exists with many foreign shippers of goods to the United States, that the consuls before whom the oath to invoices is either taken or verified have no power to examine the details of such invoices, but simply to verify the fact of such oath being taken before them or by an officer in authority known to them as such. This is not the fact; and consular officers are expected before verifying invoices to satisfy themselves of their correctness.

Reasonable time to be given for examination of invoices.

188. For the purpose of carrying out a particular system of revenue duties, the government of the United States requires that the accuracy of certain invoices should be ascertained and verified; and a reasonable time for consuls to accomplish that object, by an examination of such invoices, cannot be justly denied to them.

Attempted frauds on the revenue to be reported.

189. Consular officers are not supposed to be practically acquainted with the market prices or value of all merchandise within their district, or of the precise weights, tares, measures, bounties, &c., &c., included therein; but inquiry and experience will soon enable them to render efficient aid to the revenue officers of the United States by ascrtaining errors or frauds and promptly informing the Treasury Department, as well as the collector of the port to which the goods may be destined, of every instance where an exporter persists in refusing to correct his invoice, when apprised of its defects and that it will be subject to revision at the custom-houses of the United States.

Vigilance to be observed by consular officers.

190. In the application of an exclusive system of *ad valorem* duties to the revenue of the United States, the Treasury Department relies with confidence upon the vigilance of consuls for the detection of any abuses that may be committed, or any unfair practices that may be supposed to exist, in regard not only to the declaration of the original cost or export value of foreign merchandise, but in all the charges, discounts, bounties, &c., incident to the business of preparing goods for the markets of the United States, as well as for their promptness in reporting all the particulars to the Secretary of the Treasury.

Information to be given by consular officers to the general appraisers.

191. The board of *general* appraisers being permanently organized at New York, consuls will oblige the Treasury Department by forwarding to that board occasionally such price-currents, manufacturers' statements of prices, merchants' *printed* circulars or prices, or any other general information as may be within their reach, (directed to the chairman of said board,) and which may be considered useful to the general appraisers in the discharge of their duties.

CHAPTER XVII.

CONSULAR ACCOUNTS.

Every account to be accompanied by an explanatory account.

192. All accounts transmitted by consular officers must be accompanied by a separate communication, the subject of which must be confined exclusively to such accounts.

Accounts for miscellaneous expenses to be sent to Secretary of State.

193. All accounts for miscellaneous expenses which are specifically allowed by these instructions, or otherwise incurred in consequence of the special orders of the Department, must be sent direct to the Secretary of State.

Accounts for salaries to be sent to Secretary of the Treasury.

194. All accounts for salaries must be accompanied by the certificates required by section 242, and enclosed in a despatch explanatory of the account, to the Secretary of the Treasury, under whose direction all accounts for consular salaries are adjusted and paid.

Accounts for criminals to be sent to the Secretary of the Treasury.

195. All accounts for expenses incurred in the arrest and transportation of criminals to the United States for trial, must be enclosed in a despatch relating to that subject alone, and addressed to the Secretary of the Interior.

Accounts for expenses for relief of seamen to be sent to Fifth Auditor.

196. All accounts for expenses incurred for the relief of destitute American seamen, must be transmitted, with the vouchers and according to the prescribed forms, accompanied by a communication explanatory of the accounts, direct to the Fifth Auditor, by which officer they will be adjusted under the direction of the Secretary of State.[1]

[1] Statutes at Large, vol II, p. 204.

Settlement of accounts at the Department of State—Miscellaneous expenses.

197. The President is authorized by the 22d section of the act of August 18, 1856, regulating the diplomatic and consular systems of the United States, to provide at the public expense all such stationery, blanks, record and other books, seals, presses, flags, and signs, as he shall think necessary for the several legations, consulates, and commercial agencies in the transaction of their business; and whenever he shall think there is sufficient reason therefor, to allow consuls general, consuls, and commercial agents, who are not allowed to trade, actual expenses of office rent, not to exceed in any case ten per centum of the amount of the annual compensation allowed to such officer. President authorized to provide certain articles.

198. In order to prevent the occurrence of improper items in the accounts for office expenses of the several consulates and commercial agencies of the United States in foreign countries, consuls and commercial agents will hereafter be particular to bear in mind that charges made for any other objects than the following are deemed inadmissible, and will not be allowed, viz: Items allowed.

For one flagstaff, and one plain movable book case:

For binding all official communications received by consular officers:

For such stationery, comprised within the following articles, as may be used in their *official correspondence only*, viz: ruled cap paper, with an inch blank margin around each page, letter paper, envelopes, quills, steel pens and penholders, ink and inkstands, wafers, wax, pencils, gum arabic, india rubber, and tape:

For postages on despatches to or from the departments of the government, or its agents abroad, freight and other expenses upon boxes or packages sent to consular officers from this Department, or to their care or transmission.

Seals, presses, flags, and arms of the United States, (one of each;) also record and other consular books (one set,) and blank forms, as required by the Instructions, are furnished by the Department to consular officers, but not to the agents appointed by them at ports within their jurisdiction. In cases where there is not time to make application for and receive any of these articles, reasonable charges for them may be admitted, on making the fact satisfactorily to appear that there was an absolute necessity for their immediate purchase.

Drafts for miscellaneous expenses.

199. For the expenses incurred as above, it is necessary that regular vouchers, except for postages, should be rendered with the account to the Department. Drafts for these objects are to be made on the Secretary of State. Should the vouchers be in a foreign language, they must be accompanied by translations of the same into English, and no charge is to be made therefor.

Vouchers to be in the English language.

Drafts to be in American currency.

200. Drafts must not be made for foreign moneys of account or currency, but for the equivalent in money of the United States.

Unauthorized consular expenses.

201. No allowance will be made to consuls and commercial agents for office rent, unless the same has been authorized, prior to the transmission of the account, in each case, by special instructions, in accordance with the provisions of the 22d section of the act above mentioned; nor for office furniture,

(except for a book case, as above mentioned,) repairs of office, printing of any kind, (except blank forms in cases of emergency,) printed books, maps, advertisements, (unless authorized by law or special instructions,) clerk hire, copying or translating, (except for copies or translations made by special order of the Department,) donations, carriage hire, or contributions for charitable objects. Accounts for any of these objects, *when authorized* by special instructions, are to be kept separate and distinct from all others. Accounts for the "actual expenses" of office rent must be accompanied by vouchers.

Office rent.

202. Expenditures incurred for or by order of any other Department, are not to be included in any account against the Department of State.

Expenditures ordered by other departments not to be charged to Department of State.

203. Separate and distinct appropriations are made for salaries of consular officers,—for the relief and protection of American seamen,—and for authorized expenses. Consular officers will, therefore, render separate accounts for salary,—for office rent,—for disbursements for stationery, postage, &c.,—for the relief of destitute seamen,—and for expenses incurred in the arrest and transportation of criminals; and they will make separate drafts for their reimbursement, stating on the face of every draft the account for which it is made.

Separate drafts to be made under each item of appropriation.

204. All drafts drawn by consular officers, whether on the Secretary of State or on the Secretary of the Treasury, are to be drawn at fifteen days' sight, *acceptance waived*, in order to give sufficient time to the accounting officers to adjust the accounts before the day of payment. When the accounts and the necessary certificates are in order, the fifteen days will

Drafts to be drawn at fifteen days' sight, acceptance waived

Drafts for authorized expenditures.

probably not be required. Drafts for disbursements made for objects not expressly authorized by law or instructions, must not be drawn until notice is received from the Department that the accounts and vouchers have been examined and approved.

Loss by exchange, when allowed.

205. Loss by exchange in the sale of drafts on the Secretary of State will be allowed, provided that the certificates of the bankers or brokers to whom the sale may have been made are transmitted, showing the loss sustained, or the certificate of two or more merchants, bankers, or brokers, showing the rate of exchange between the place where the consular office is situated and the city of New York, at the respective dates of the drafts, as per Form No. 25.

Accounts for the relief of destitute seamen.

Relief of seamen.

206. By the fourth section of the act of 28th February, 1803,[1] it is made the duty of consular officers to provide for the mariners of the United States who may be found destitute within their districts sufficient subsistence and passage to the United States, in the most reasonable manner, at the expense of the United States, subject to such instruction as the Secretary of State shall give; and the section also provides for the manner in which such mariners are to be transported to the United States.

Accounts for relief of seamen to be sent to Fifth Auditor.

207. Accounts for the relief and protection of American seamen, accompanied with sufficient vouchers, and in accordance with the forms prescribed in the 15th chapter of these Instructions, must be sent *direct* to the Fifth Auditor of the Treasury, accompanied by a communication explanatory of the several items of the account.

[1] Statutes at Large, vol. II. p. 203.

208. In all cases of relief afforded, whether the seamen who have received it be returned to the United States or not, an exact account must be furnished, in accordance with Form No. 15, by the consular officer. Quarterly accounts to be transmitted.

209. Vouchers will in all cases be required in the adjustment of the accounts of consular officers. Vouchers required

210. For the board or subsistence of seamen in health, or sick in the hospitals, bills must be taken in every case, with the necessary receipts to the consular officer for the amount, in which bills the names of the seamen, the time of subsistence, with dates of commencement and termination, and rate per day or week, must be stated, and the bills transmitted with the accounts to the Fifth Auditor of the Treasury, as per Form No. 26. For medical attendance the same rule will be observed as per Form No. 27. Character of vouchers.

211. For clothing, (which should be of the cheapest kind sailors are accustomed to wear,) bills of parcels, specifying the different articles and price of each, with receipts for payment, should not only be produced, but the receipts of the seamen themselves for the articles supplied must accompany the consular accounts, as per Form No. 28. The law of 28th February, 1803, makes no difference in its provisions for masters and mates of vessels and seamen, and consular officers will be careful to make none. When charges for supplies for officers are at a higher rate than those for seamen, a deduction of the excess will in every case be made. Vouchers for clothing. No discrimination to be made between officers and seamen.

212. In order to guard against defrauding destitute seamen, and to preserve the fund appropriated Witness to receipts should be disinterested.

for their relief, the rule has long existed in the accounting offices in the Treasury Department, that the receipts for clothing, necessaries, and supplies, given by sailors making their marks, or otherwise, should be witnessed. In settling the accounts of consular officers, it appears that the execution of such receipts is, in many instances, witnessed by a member of the firm furnishing the articles. This should not be the case; the witnesses ought to be disinterested.

Violation of instructions to be reported to Department of State.

213. In the settlement of the accounts of consular officers at the Treasury, every violation of this instruction will be reported to the Department of State.

Relief of seamen not discharged but happening at a consulate.

214. If any seaman happens at a United States consulate not from discharge from a vessel, but from shipwreck or otherwise, the same must be stated accordingly, with the time he arrived at the consulate, so that the return will show how and when each relieved seaman happened there. And if no extra wages are received, the reasons why such wages have not been received should appear from the return, or other accompanying papers.

The three months' wages always to be exacted.

215. When American seamen are discharged in any port from sickness or any other cause, the three months' extra wages should invariably be exacted as required by the acts of February 28, 1803, and of August 18, 1856. The three months' extra wages are to be credited in consular accounts, and the two-thirds thereof are not to be paid to seamen until they shall have engaged on board some vessel to return to the United States; and then only when no disbursements shall have been made on their account. Expenses incurred for them are first to be paid, and

When payment of two months' extra wages are to be made to seamen.

the balance only, if any, to be returned them. On payment of the two months' extra wages to seamen, consular officers will take and forward receipts with their accounts to the Fifth Auditor, in accordance with Form No. 29.

Passage of seamen to the United States.

216. Consular officers will be careful to send all American seamen found destitute within their districts to the United States, giving to the master of the vessel on board of which they are placed, a certificate, in accordance with Form No. 30, setting forth their names and the amount to be paid for their passage, which amount will be promptly remitted upon the receipt at the Treasury Department of the said certificate, bearing an endorsement of the collector of the customs that the seamen therein mentioned have arrived in said vessel within his district. Passages paid by consuls will not be allowed without satisfactory explanation and proof of the delivery of the seamen at the port to which such passages were paid.

Passages of seamen in foreign and other vessels.

217. To obviate the excuse sometimes made for retaining seamen at the consulates, namely, the want of vessels homeward bound in which to send them, (as the law limits the number of seamen which vessels of the United States shall be required to bring and the price to be paid for their passages,[1]) consular officers are instructed, when an American vessel has received two seamen for every one hundred tons burthen at the price fixed by law, to negotiate with the master of such vessel for the passage to the United States of an additional number, if necessary, at a reasonable compensation above the ten dollars fixed by law,—to be paid on the presentation

[1] Statutes at Large, vol. II, p. 204.

of the consular certificate in the usual way at the Treasury; and also with masters of foreign vessels, at reasonable rates, when opportunities by American vessels do not offer. In such cases, the reasons for the payment of increased compensation should be stated in the consular certificate.

Consular certificate, Form No. 31, when required.

218. When a greater number of seamen is sent in a vessel than she is by her tonnage required to take, or for whose passages a greater amount is allowed than is prescribed by law, a certificate must be transmitted that there were no other American vessels then in port bound for the United States, in accordance with Form No. 31.

Economy in the disbursements of fund for relief of seamen expected.

219. The great increase in the amount annually expended for the relief and protection of destitute American seamen in foreign countries, calls upon the Department to adopt all proper measures, compatible with the relief and protection of that meritorious class of American citizens, for the reduction of this expenditure. In such regulations as may be adopted for this purpose, full confidence is placed in the efficient co-operation of the consular officers of the United States, to whose administration, under the instructions of the Department, are intrusted the funds appropriated for the relief and protection of seamen.[1]

Rule for the adjustment of consular accounts for relief of seamen.

220. Among the causes which appear to have produced this increased expenditure is that of the detention of seamen at some consulates for long periods of time. There can be but two reasons for this practice: first, a deficiency of American or other vessels bound to the United States, by which they may be sent home; or, second, such a state of in-

[1] Statutes at Large, vol. II, p. 204.

firm health of the seamen as would render it improper to send them on the voyage. In order to guard against an improper expenditure from this cause, the accounting officers, with the sanction of the Department of State, have adopted a rule to suspend, in the adjustment of consular accounts, all charges for relief afforded to seamen who have been for more than three months chargeable to the United States, unless the accounts are accompanied by satisfactory evidence, first, that the detention was caused by a want of vessels in which they might have been shipped to the United States; or, second, that the health of the seamen was in such a state that it would endanger their lives to send them on the homeward voyage. The evidence in the latter case is to be the certificate, as per Form No. 32, of the attending physician.

Observance of rule enjoined.

221. The attention of all consular officers is called to this rule, and a strict compliance with it is expressly enjoined in all cases in which it may be applicable. This will be requisite to ensure the payment of consular drafts on this Department.

Shipment of seamen to intermediate ports.

222. In places where opportunities of sending seamen home seldom occur, and employment on board of American vessels cannot be obtained, it may be proper for the consular officer, in the exercise of a sound discretion, to ship them to an intermediate port where they may be likely to find such employment or a passage to the United States. He will, in this case, make a specific agreement with the master of the vessel, at the most reasonable rate, for their passage; giving to him a draft on the Secretary of State for the amount, on the face

of which it must be expressed that its payment shall be upon the sole condition that there shall be endorsed upon it a certificate of the consular officer at the port to which the vessel may be bound, that the seamen named have arrived at his consulate. In the exercise of this discretion, he will take into consideration the relative cost of keeping the seamen where they are and at the port to which they can be sent, together with the expense of their passage thither and the probability of their obtaining employment there or a passage home, and adopt the course which may seem best, having a due regard for the interest of the United States and a proper concern for the seamen.

Administration of seamens' fund.

223. All consular officers are instructed to give special attention to the particular observance of these regulations, as well as the adoption of such other measures as their experience may suggest for the faithful and economical administration of the funds committed to them.

Additional allowances authorized in certain cases.

224. The fourth section of the act of February 28, 1803, makes it the duty of consuls, vice consuls, commercial agents, and vice commercial agents, to send home destitute American seamen from their districts, at a compensation not to exceed ten dollars each.[1] But as seamen might be transported from seas and districts where there were no United States consuls, vice consuls, commercial agents, or vice commercial agents, Congress, by an act approved February 28, 1811,[2] authorized the Comptroller to make such additional allowance as should be deemed to be equitable.

[1] Statutes at Large, vol. II, p. 204. [2] Ibid., p. 651.

225. The amount allowed for passage to the United States of destitute American seamen is payable at the Treasury of the United States, and not by the collectors of ports. The certificate for such compensation should be made in accordance with the provisions of the 157th section of these Instructions, and be transmitted to the Fifth Auditor of the Treasury at Washington. All accounts are to be in the name of the principal consular officer, and drafts on the Department made by those officers only. No account or draft of a vice consul or vice commercial agent will be attended to, unless in the absence of the principal consular officer from his post; in which case a certificate of that fact must accompany the account.

Passage of seamen payable at the Treasury.

Drafts to be drawn by the principal consular officer.

Accounts for disbursements in criminal cases.

226. Disbursements incurred for the arrest or imprisonment of persons accused of committing any crime against the United States, also all charges for taking depositions in such cases, should be charged in the general quarterly consular account, and will thus be reimbursed to the consul from fees received for the government; but in those consulates where the fees are inadequate to cover the salary and expenses chargeable to the government, and those consulates and commercial agencies not included in schedules B and C, the amount thus charged will swell the balance due the consul, and will therefore be included in his draft on the Department for such balance.

Disbursements on account of criminals.

227. For disbursements and expenses thus incurred the consular officer will, in all cases, forward

Separate accounts for dis-

bursements for criminals to be sent.

a separate and distinct account, with the necessary vouchers, besides including the *aggregate* in his general account; which will, of course, be subjected to examination and revision by the accounting officers of the Treasury.

No special drafts to be drawn for criminal expenses.

228. In no case, unless specially authorized, are drafts to be drawn by salaried consular officers for such disbursements and expenses.

Passage of prisoners to the United States.

229. No specific instructions can be given as to the precise amount a consular officer may contract to allow a master of a vessel for transporting a prisoner to the United States for trial. The character of the individual charged with the offence is to be taken into consideration as well as the opportunities that may be offered for his passage to the United States.

Passage from ports frequented by American vessels.

230. If the prisoner be at a port frequented by American vessels, no contract for his passage should be made till the consular officer shall be able, after sufficient inquiry, to make an agreement that shall not be deemed unreasonable by himself or the authorities at home.

Cost of passage, when excessive.

231. If the amount demanded should be excessive, the consular officer will take into consideration the probability of the arrival of other vessels within a reasonable time.

Passage from ports rarely visited by U. S. vessels.

232. If the prisoner is at a port rarely visited by American vessels, where the expenses of confinement are heavy, these circumstances, and all others bearing on the question, should be taken into consideration by the consul, and he should act as a discreet and prudent man would in his own business.

Compensation for passage may

233. A consular officer may, therefore, agree upon a reasonable compensation with the master of a vessel

for the transportation of a prisoner to the United States, or, by mutual agreement, the compensation may be left to the determination of the Treasury Department, when all the circumstances shall have been presented after the arrival and delivery of the prisoner to the proper authorities.

be left to the Treasury Department.

234. No allowance will be made to consular officers for expenses incurred in procuring the defence, in any court of law, of American seamen, accused of violating the laws of foreign countries, without special instructions from the Department of State.

No allowance, unless by special instruction, for defending American seamen in courts.

Accounts of consular officers for salaries.

235. Consular officers acting under the provisions of the act approved August 18, 1856, are required to keep, with their other official books and records, a fee book, as described in section 139, properly prepared, and well and substantially bound. This book, in addition to the usual faint lines, is to be ruled in columns, for date, number, name of the vessel and captain, or other party or parties who may pay fees, the nature of the service rendered, and the amount of the fee therefor, as in Form No. 8, or No. 9.

Fee book to be kept.

236. For every fee received, or for the aggregate amount received at any one time from the same party, a separate and distinct bill must be rendered, and receipted when paid; which bill is to be duly entered in the fee book, specifying in the respective columns the date, name, nature of the service rendered, and amount of the fee, and, if for any service connected with any ship or vessel, the name thereof, and indicating what items and amounts are embraced in each receipt given by the consular officer there-

Fee book, how to be kept.

for; and to each entry thus made, on the corresponding faint line, the regular number shall be placed, commencing each calendar year with number one, and continuing the same in regular numerical order until the close of the year, and to each bill so rendered and paid, the corresponding number in the book shall be affixed, so that the receipts and register shall correspond with each other. A full and perfect transcript of this fee book must be transmitted quarterly, by *salaried* consular officers, to the Treasury Department, duly certified under the seal of the consulate or commercial agency, as required by the 18th section of the act above mentioned, of said officers specified in schedules B and C. All other consular officers will send a transcript of their respective fee books with their quarterly returns, but with a separate despatch, to the Department of State.

Transcript of fee book to be sent by salaried consular officers to Treasury Department; by other consular officers to Department of State.

237. It is provided by the same section of the act that every consular officer, in rendering his account or report of fees received, shall furnish a full transcript of the register which he is hereby required to keep, under oath or affirmation that the same is true and correct, and that the same contains a full and accurate statement of all fees received by him, or for his use, for his official services as such consular officer, to the best of his knowledge, during the period for which the same shall purport to be rendered. Such oath or affirmation may be taken before any person having authority to administer oaths and affirmations at the port or place where such consular officer resides.

Transcript to be certified by oath.

238. It is provided also that if any consular officer shall wilfully and corruptly commit perjury, in any

Penalty for perjury.

such oath or affirmation, within the intent and meaning of any act of Congress now or hereafter made, he may be charged, proceeded against, tried and convicted, and dealt with in the same manner, in all respects, as if the offence had been committed in the United States before any officer duly authorized therein to administer or take an oath or affirmation, and shall be subject to the same punishment and disability therefor as are or shall be prescribed by any such act for such offence.

Commencement and termination of consular compensation.

239. Consuls general, consuls, commercial agents, and consular pupils, are entitled to compensation for their official services, from the time when they respectively reach their ports to the time when they severally cease to hold their offices; and also for such time as shall actually and necessarily be occupied in receiving their instructions and making the transit between their residence after appointment and their several ports of duty, at the commencement and termination of the period of their official services, except in case of resignation, or recall for any malfeasance in office.

Accounts and drafts to be made quarterly.

240. If a consular officer enters upon his duties in a quarter partly expired, his first account should be made up to the close of such quarter; each quarter ending by law on the 31st March, 30th June, 30th September, and 31st December, respectively. Afterwards, the accounts must be rendered quarterly, until the termination of the service. The drafts for salary must be made quarterly, corresponding to the quarters of the fiscal year; drafts for a fraction of a quarter are not to be made, except for such fraction as may intervene between the commencement of

their salary and the end of the current quarter of the fiscal year, and for that between the commencement of a quarter and the termination of their office. The outgoing consular officer, if present, and the incoming one should jointly certify to the day on which the latter enters on the duties of his office.

Compensation, when allowed in cases of absence.

241. It is provided by the 19th section of the act, that no consular officer or consular agent shall be absent from his post or the performance of his duties for a longer period than ten days at any one time, without the permission previously obtained of the President. And no compensation shall be allowed for the time of any such absence in any case, except in cases of sickness. In such cases, a certificate of the fact must accompany the account, which certificate must be signed by the attending physician, as well as the consular officer.[1]

Forms and certificates to accompany consular accounts.

242. Each account and draft must, therefore, be accompanied with a certificate stating the fact in regard to absence as it exists. A form, (No. 33,) according to which the accounts of consuls and commercial agents for salaries should be stated, and also forms (No. 34, No. 35, and No. 36,) of the several descriptions of official certificates required to accompany consular accounts, are annexed to these Instructions.

Forms and instructions to be observed.

243. Consuls are especially instructed to observe carefully these forms and instructions in regard to their accounts, in order that all possible facilities may be afforded for the adjustment of the same, and the payment of the salaries under the act.

Application of fees to payment of salaries.

244. As many of the United States consular officers are stationed at places so remote from the

[1] See section 106, et seq.

United States that much time must elapse in making remittances to and from the Treasury Department, and much risk incurred, as well as loss by exchange, consuls and commercial agents are instructed to retain (of the fees which they are required to charge for certain services, and account for at the expiration of every three months) such moneys as they may receive for their official services, as prescribed by the President, and apply the amount thus received during the quarter, at the end of the same quarter, towards the payment of their salaries, if less than the full amount thereof; if equal to their salaries, respectively, then to the extinguishment of the same. Should there be a surplus, the excess is to be held subject to the draft or order of the Secretary of the Treasury.

Drafts for salary.

245. When the amount received by any consular officer on account of fees during the quarter, shall be less than his salary for such quarter, he may draw on the Secretary of the Treasury for the difference, at fifteen days' sight. It must be stated on the face of the draft that it is for the balance of salary, designating the quarter in which the deficiency occurred for which it is drawn. The account of the receipts of the consular officer during the same quarter must precede the draft, so that it may be received and adjusted by the accounting officers, prior to the presentation of the draft. All consular officers are explicitly instructed that their drafts on account of their salaries cannot be honored unless drawn in the manner stated in these instructions, and accompanied with the official statements and certificates herein pointed out.

CHAPTER XVIII.

THE RECIPROCAL DUTIES OF CONSULAR OFFICERS AND MASTERS OF AMERICAN VESSELS.

Deposit of ship's papers.

246. By an act of the Congress of the United States, approved February 28, 1803, it is in substance directed that every master of an American vessel shall, on his arrival at a foreign port, deposit his register, sea letter, and Mediterranean passport, with the consular officer of the United States, if there be one at the port, under a penalty of five hundred dollars, which the consular officer may recover in his own name for the use of the United States.

Delivery of ship's papers.

247. Whenever a clearance from the proper officer of the port shall be produced to the consular officer, he shall deliver up all the ship's papers, provided the master shall have complied with the provisions of the above mentioned act,[1] and those of the 28th section of the act of August 18, 1856.

Payment of all demands to be made before return of papers.

248. All consular officers are authorized and required, by the 28th section of the last mentioned act, to retain in their possession all the papers of such ships and vessels, which shall be deposited with them as directed by law, till payment shall be made of all demands and wages on account of such ships and vessels.

Ships' papers not required where there is no formal entry.

249. Where vessels merely touch at a foreign port to try the market, or are accidentally driven into such port, and make no formal entry, it does not constitute an "*arrival*" within the meaning of the act, and the ship's papers cannot be required by the consul.[2]

[1] Statutes at Large, vol. II, p. 203.

[2] United States v. Shackford, Mason's Reports, vol. V, p. 445.

250. As some doubt has arisen in regard to what constitutes an "arrival," the attention of consuls and commercial agents is particularly called to the following extract from an opinion of the Supreme Court of the United States:[1]

An arrival defined.

"Our view, then, is, that the term *arrival*, as used in this act, must be construed according to the subject-matter, the object of the provision, and the expressions in other sections of this act, and in other like acts; and that according to all these, a vessel putting into a foreign port to get information, and getting it without going at all to the upper harbor or wharfs, and not entering, or repairing, or breaking bulk, or discharging seamen, or being bound homewards, so as to take seamen, or needing the aid of the consul in any respect, but leaving the port in a few hours; not doing any of these, nor being required to, and duly entering and delivering her cargo at a neighboring port, where it had been sold, and there depositing her papers with the vice consul, cannot be said to have arrived at the first port, so as to come within the spirit of the penal provision as to depositing her papers with the consul. So far as regards precedents on this matter, the actual decisions of one court and the opinions of two Attorneys General are in favor of our conclusion."[2]

Opinion of Supreme Court as to what constitutes an arrival.

251. Vessels accidentally driven into a port are not required to deposit their papers with the consular officer,[3] unless formal entry be afterwards made, or consular services required.

Papers of a vessel driven into a port.

[1] Howard, vol. IX, p. 372.

[2] Opinions of Attorneys General, vol. IV, p. 340; Ibid., vol. V, p. 161; Toler vs. White, Ware, p. 280.

[3] Statutes at Large, vol. I, p. 167.

Effect of the production of a clearance.

252. It is stated in the opinion of the Attorney General of October 17, 1853,[1] that the body of the second section of the act of 1803 contemplates an arrival at a foreign port, with a clearance from the proper officer of the port. It is the production of the clearance to the consular officer which gives to the master the right to demand a return of the ship's papers, and imposes on the consul the duty of returning them.

When ship's papers may be retained.

253. The proviso to the section[2] allows the consular officer, notwithstanding the clearance from the proper officer of the port, to detain the ship's papers until certain requirements of law shall have been complied with: which are the payment of the fees due the consular officer for his services[3]; the payment to him of three months' pay, additional to wages due, for every discharged seaman who is designated on the certified list of the ship's company as a citizen of the United States; and the taking on board, at the request of the consular officer, of destitute mariners for transportation to the United States.[4]

Limitation of the right of a consular officer to a ship's papers.

254. This right of the consular officer attaches to the register and other papers when they shall have been lawfully deposited with him; but the statute does not compel the deposit for the purpose of giving the right of detention.

Interpretation of legal provisions.

255. Neither the section of the act which regards discharged seamen, nor that which provides for distressed seamen, nor the regulation as to consular fees, requires a deposit of the register and other

[1] Opinions of Attorneys General, vol. VI, p. 168.
[2] Statutes at Large, vol. II, p. 203.
[3] Act of August 18, 1856, sec. 28.
[4] Statutes at Large, vol. II, p. 204.

papers, although the former makes it the duty of the master to exhibit to the consul a certified list of the ship's company. And the proviso above cited does not enlarge the scope of the other provisions of law as to the deposit of the papers; it only releases the consul from the duty, which would otherwise be imperative upon him, of returning the papers upon exhibition of the clearance alone.[1]

Duty of a consular officer on the failure of a shipmaster to deposit his ship's papers.

256. By the first section of the act of 1803, it is made the duty of the consular officer, immediately on the arrival of an American vessel, should the master neglect to deliver his ship's papers, as he is directed by law, to inform him of the necessity of so doing, by showing him the law that requires it, and apprising him of the penalty he will incur by refusal or neglect. If he fail to comply, a certificate of the fact, under the consular seal, (see Form No. 37,) must be immediately sent to the Department of State, giving a description of the vessel, the port to which she belongs, where bound, and the usual residence of the master. In such a case, it is desirable that the consul should send some other evidence of the arrival and departure of the delinquent master with his vessel, besides that of his own certificate, as it has been held that such evidence of any fact is not sufficient,[2] unless expressly or impliedly made so by statute.

Papers to be safely kept and a certificate to be given.

257. When the ship's papers are received, they are to be kept together in as safe a place as possible, to guard against fire and other accidents; and the

[1] Opinions of Attorneys General, vol. VI, p. 169.

[2] Levy v. Burley, Sumner, vol. II, p. 355; Waldron v. Cranch, Taunton Reports, vol. III, p. 162; Church v. Hubbard, Cranch, vol. II, p. 237; The United States v. Mitchell, Wash. C. R., vol. II, p. 478.

consul, on receiving such papers, shall give a certificate of the fact, (see Form No. 38,) or a receipt, under seal, and make an entry in his consular record, specifying the time of delivery, the name of the vessel, the master, and the character of the papers deposited.

Delivery of papers with a certificate.

258. Whenever the master shall produce the clearance of his vessel, and shall have complied with the directions of the acts above mentioned, having fulfilled every lawful requisition of the consul and of the local authorities, the consul shall, without delay, deliver up the papers, with a consular certificate, (see Form No. 39,) under seal, of the time of such delivery, and make an entry of the like period in his consular record.

Crew list to be delivered to collector.

259. Before a clearance is granted to any American vessel bound on a foreign voyage, the master thereof is required to deliver to the collector of the customs a list, containing the names, places of birth and residence, and a description of the persons who compose his ship's company, to which list the oath or affirmation of the captain is to be annexed, that it contains the names of his crew, together with the places of their birth and residence, as far as he can ascertain them; a certified copy, written in a uniform hand, without erasures or interlineations, must be delivered to the master by the collector, for which he is entitled to receive from the master the sum of twenty-five cents. The said master must then enter into bond, with sufficient security, in the sum of four hundred dollars, to exhibit the aforesaid certified copy of the list to the first boarding officer at the first port in the United States at which he shall

arrive on his return thereto, and then and there also to produce the persons named therein, to the said boarding officer, whose duty it is to examine the men with such list, and to report the same to the collector.

All seamen named in crew list to be accounted for.

260. It is the duty of the collector at the said port of arrival (where the same is different from the port from which the vessel originally sailed) to transmit a copy of the list so reported to him, to the collector of the port from which said vessel originally sailed.

Arrival of a vessel at a port in the U. S. different from that of departure.

261. It is provided, however, that the said bond shall not be forfeited on account of the said master not producing to the first boarding officer, as above mentioned, any of the persons contained in the said list who may be discharged in a foreign country with the consent of the consular officer residing there; which consent is to be signified in writing, under his hand and official seal, and produced to the collector, with the persons composing the crew as aforesaid; nor on account of any such person dying or absconding, or being forcibly impressed into other service, of which satisfactory proof shall be then also exhibited to the collector.[1]

Shipmaster's bond; when not forfeited.

262. In addition to the certified copy of the crew list above mentioned, a certified copy of the shipping articles must likewise be obtained from the collector of the district from which the clearance is made, containing the names of the crew, which shall be written in a uniform hand, without erasures or interlineations.

Shipping articles.

263. All interlineations, erasures, or writing in a hand different from that in which such duplicates were originally made, are considered fraudulent

Effect of interlineations, erasures, &c.

[1] Statutes at Large, vol. II, p. 203.

alterations, working no change in such papers, unless satisfactorily explained in a manner consistent with innocent purposes and the provisions of law which guard the rights of mariners.

Consular officer may require the production of crew list and shipping articles.

264. These documents, which are deemed to contain all the conditions of contract with the crew as to their service, pay, voyage, and all other things, must be produced by the master, and laid before any consular officer or other commercial agent of the United States, whenever he may deem their contents necessary to enable him to discharge the duties imposed upon him by law toward any mariner applying to him for his aid or assistance.[1]

Payment of three months' wages; when required.

265. Whenever a ship or vessel belonging to a citizen of the United States is sold in a foreign country, and her company discharged, or when a seaman or mariner, a citizen of the United States, is with his own consent discharged in a foreign country, it is the duty of the master or commander to produce to the consular officer the certified list of his ship's company, and pay to such consular officer for every seaman or mariner so discharged, being designated on such list as a citizen of the United States, three months' pay, over and above the wages which may then be due to such mariner or seaman, two-thirds thereof to be paid by such consular officer to each seaman or mariner so discharged, upon his engagement on board of any vessel to return to the United States, and the other remaining third to be retained for the purpose of creating a fund for the payment of the passages of seamen or mariners, citizens of the United States, who may be desirous of returning to the United States, and for the maintenance of

[1] Statutes at Large, vol. V, p. 394.

American seamen who may be destitute, and may be in such foreign port.[1]

Seamen's fund to be accounted for.

266. The several sums retained for the seamen's fund are to be accounted for to the Treasury Department by the consular officers receiving the same.[2] (See Form No. 40.)

Desertion of a seaman.

267. Whenever any seaman or mariner of any vessel of the United States deserts such vessel, the master or commander of the vessel is required to note the fact and date of the desertion on the list of the crew, and to have the same officially authenticated at the port or place of the consulate or commercial agency first visited by the vessel after such desertion. If the desertion shall have occurred in a foreign country, or if, in such case, the vessel shall not visit any place where there is any consulate or commercial agency before her return to the United States, or if the desertion shall have occurred in the United States, the fact and time of desertion shall be officially authenticated before a notary public immediately at the first port or place where such vessel arrives after the desertion. All wages that may be due to such seaman or mariner, and whatever interest he may have in the cargo of such vessel, shall be forfeited to and become the property of the United States, and paid over for their use to the collector of the port where the crew of such vessel are accounted for as soon as the same can be ascertained, first deducting therefrom any expense which may necessarily have been incurred on account of such vessel in consequence of such desertion.[3]

[1] Statutes at Large, vol. II, p. 204.

[2] Ibid., vol. II, p. 203. [3] Ibid., vol. XI, p. 62.

Settlement of seamen's accounts.

268. In settling the account of such wages or interest, no allowance or deduction shall be made, except for moneys actually paid, or goods at a fair price supplied, or expenses incurred to or for such seaman or mariner, any receipt or voucher from or arrangement with such seamen or mariner to the contrary notwithstanding.[1]

Discharge of seamen when the voyage is continued contrary to agreement.

269. When any mariner shall complain that the voyage is continued contrary to his agreement, or that he has fulfilled his contract, the consular officer may examine into the subject by an inspection of the articles of agreement; and if on the face of them he finds the complaint to be well founded, he is required to discharge the mariner, if he desires it, and require of the master an advance, beyond the lawful claims of such mariner, of three months' wages, as provided in the act of February 28, 1803; and in case the lawful claims of such mariner are not paid upon his discharge, the arrears shall from that time bear an interest of twenty per centum.

Three months' pay; when not required.

270. If, however, the consular officer shall be satisfied that the contract has expired, or the voyage been protracted by circumstances beyond the control of the master, and without any design on his part to violate the articles of shipment, then he may, if he deems it just, discharge the mariner without exacting the three months' additional pay.[2]

Discharge of seamen under any act of Congress or general usages.

271. Upon the application of any seaman or mariner for a discharge, if it shall appear to the consular officer that he is entitled to his discharge under any act of Congress, or according to the general principles or usages of maritime law as recognised in the

[1] Act of August 18, 1856, section 25. [2] Statutes at Large, vol. V, p. 168.

United States, he is required to discharge such seaman or mariner, and require from the master or commander of the ship or vessel from which such discharge shall be made the payment of three months' extra wages, as provided by the act approved February 28, 1803; and it shall be the duty of such master or commander to pay the same, and no such payment, or any part thereof, shall be remitted in any case, except such as are mentioned in the preceding section, and in cases of wrecked or stranded ships or vessels, or ships or vessels condemned as unfit for service, when no payment of extra wages shall be required.[1] The extra wages required to be paid by the foregoing clause of this section, are applicable to the same purposes and in the same manner as is directed by the act approved February 28, 1803, in regard to the extra wages required to be paid by that act.

Extra wages.

Disposition of extra wages.

272. If the first officer, or any officer and a majority of the crew, of any vessel make complaint in writing that she is in an unsuitable condition to go to sea, because she is leaky, or insufficiently supplied with sails, rigging, anchors, or any other equipment, or that the crew is insufficient to man her, or that her provisions, stores, and supplies are not, or have not been during the voyage, sufficient and wholesome, thereupon, in any of these or like cases, the consular officer of the port is required to appoint two disinterested competent practical men, acquainted with maritime affairs, to examine into the causes of complaint, who must, in their report, state what defects and deficiencies, if any, they find to be well founded, as well as what, in their judg-

Survey of a vessel; when to be ordered.

Appointment and qualifications of inspectors.

[1] Statutes at Large, vol. XI, p. 62; Act of August 18, 1856, section 26.

ment, ought to be done to put the vessel in order for the continuance of her voyage.[1]

Duty of inspectors.

273. The inspectors so appointed have full power to examine the vessel and whatever is aboard of her, so far as is pertinent to their inquiry, and also to hear and receive any other proofs which the ends of justice may require; and if, upon a view of the whole proceedings, the consular officer be satisfied therewith, he may approve the whole or any part of the report, and shall certify such approval, and if he dissents, shall also certify his reasons for so dissenting.

Discharge of crew and payment of extra wages.

274. The 14th section of the act of July 20, 1840, provides, that if the inspectors report that the vessel was sent to sea unsuitably provided in any important or essential particular, by neglect or design, and the consular officer approves of such finding, he shall discharge such of the crew as require it, each of whom shall be entitled to three months' pay in addition to his wages up to the time of discharge; which amount is to be paid to them, provided no expenses have been incurred by a consular officer on their account.

When the crew are not to be discharged.

275. If the deficiency complained of by the crew is reported by the inspectors to have been the result of mistake or accident, and could not in the exercise of ordinary care have been known and provided against before the sailing of the vessel, and the master shall in a reasonable time remove or remedy the causes of complaint, then the crew shall remain and discharge their duty.

Proceedings in case the complaint is not remedied or removed.

276. But if the master does not, in a reasonable time, remove or remedy the cause of complaint, then the crew shall, upon their request, be discharged,

[1] Statutes at Large, vol. V, p. 396.

and they shall receive, each, "one month's wages in addition to the pay up to the time of the discharge."

Payment of damages and charges for inspection.

277. The master is required to pay all such reasonable charges in the premises as shall be officially certified to him under the hand of the consular officer; but in case the inspectors report that the complaint is without good and sufficient cause, the master may retain from the wages of the complainants, in proportion to the pay of each, the amount of such charges, with such reasonable damages for detention on that account as the consular officer directing the inquiry may officially certify.[1]

Construction of the act of 1840 as to seamen's wages.

278. The act of July 20, 1840, does not change the general principle of the maritime law, that seamen's wages are not due for a voyage not performed, when no freight has been earned, when the voyage has been broken up by a disaster at sea, and when no fault is attributable to the master or owners; nor does it put it into the power of the crew, when the vessel is obliged to put into the nearest port for safety in consequence of a leak caused by straining in heavy rolling seas, rendering her unable to continue the voyage until repaired, to complain of the master for such an event, cause the vessel to be sold, and thereby acquire profit to themselves by the payment of wages not earned, and the further advance of pay for three months to come.[2]

Application of the act of 1840 to the sale of a vessel.

279. The act of February 28, 1803, applies only to the voluntary sale by the master in a foreign port, or by the owners, and not to a case where a sale is rendered necessary by shipwreck.[3]

[1] Statutes at Large, vol. V, p. 394.

[2] Opinions of Attorneys General, vol. VI, p. 625. [3] Ibid., p. 622.

Construction of the act of 1840 as to unseaworthy vessels.

280. In its 12th, 13th, and 14th sections, the act of July 20, 1840, does not apply to a vessel not about to sail from the port in an unsuitable condition. It applies to a case where a vessel, having arrived at a foreign port, is about to sail thence on another or continuous voyage, and the crew apprehend that their lives will be endangered because of her unsuitable condition to go to sea, and make complaint to the consular officer of the intention to go to sea in an improper and unsuitable condition, and state the reason of such unsuitable condition to be "because she is leaky, or insufficiently supplied with sails, rigging, anchors, or any other equipment, or that the crew is insufficient to man her, or that her provisions, stores, and supplies are not, or have not been during the voyage, sufficient and wholesome." Upon complaint in any of these or like cases, the consular officer must appoint fit persons "to examine into the causes of complaint," as also into the condition of the vessel, and whatever is on board, and to receive any other proof.[1]

Duty of examiners; no authority to order a sale.

281. The inspectors are to report what defects and deficiencies exist; also, whether, in their opinion, "the vessel was sent to sea unsuitably provided in any important or essential particular by neglect or design," and if they find any complaint "well founded," what ought to be done "to put the vessel in order for the continuance of her voyage." They have no authority to report a sale; the crew have no authority to ask a sale; this act gives no authority to the consular officer to order a sale of the vessel.[1]

Object of the act.

282. This act has not deprived owners and masters of vessels of the right to consult their own

[1] Opinions of Attorneys General, vol. VI, p. 622, et seq.

interests in selling or not selling; it has not subjected vessels to the orders of sale by consuls, because vessels have in their voyages sprung a leak and put into the nearest port for safety. It is intended to redress the first complaints of the crews of American vessels in foreign ports against being compelled to risk their lives in vessels about to go to sea in an unsuitable or unsafe condition; to hear and redress the just complaints of mariners against being exposed to peril by the neglect or design of masters and owners or by their mistakes or accidental omissions.

Terms of passage of seamen, and duties of shipmasters.

283. By the 4th section of the act of February 28, 1803, all masters and commanders of vessels belonging to citizens of the United States, and bound to some port of the same, are required and enjoined to take on board their ships or vessels, at the request of the consular officers, such American seamen as may be found in their districts respectively, and to transport them to the port in the United States to which such ships or vessels may be bound, on such terms, not exceeding ten dollars for each person, as may be agreed upon between the said masters and consular officers. And the said seamen shall, if able, be bound to do duty on board such ships or vessels according to their several abilities.[1]

Passage money; how paid.

284. To enable the master of the vessel to obtain the payment specified, the consular officer will give him a certificate, stating the names of the seamen placed on board, and the amount to be paid for their passage; on which, upon the arrival of the vessel in a port of the United States, an endorsement must be made by the collector of the customs at such port, stating that such seamen have arrived in said vessel

[1] Statutes at Large, vol. II, p. 204.

in his district. When the certificate so endorsed is received at the Treasury Department, the amount will be paid to its holder.

Limitation of number of passenger seamen.

285. No master or captain of any ship or vessel is obliged to take a greater number than two men to every one hundred tons burden of the said ship or vessel on any one voyage.

Penalty for refusal to take seamen.

286. It is further provided, that if any such captain or master shall refuse the same on the request or order of the consular officer, such captain or master shall forfeit and pay the sum of one hundred dollars for each mariner or seaman so refused, to be recovered for the benefit of the United States in any court of competent jurisdiction.

A consular certificate to be evidence in court.

287. The certificate of any such consular officer, given under his hand and official seal, shall be *prima facie* evidence of such refusal in any court of law having jurisdiction for the recovery of the penalty aforesaid.

Construction of the act in relation to the destination of vessels.

288. The act does not impose the duty of transportation upon every American vessel found in a foreign port. For obvious reasons, such a requirement might, under many circumstances, operate oppressively upon masters and owners. But the provision is limited in its application to such vessels found in a foreign port as shall belong to citizens of the United States, and as *shall be bound to some port thereof;* and it does not apply to vessels bound to another foreign port, and *thence* to some port of the United States; such a construction would apply the provisions of the act to every vessel belonging to citizens of the United States, *wherever bound*, if destined ultimately to return home. The act does not

require that masters of vessels should transport destitute seamen, except in cases in which such vessels are bound *direct* to some port in the United States.

A consular officer to decide in what vessels to ship seamen.

289. The consular officer is the exclusive judge in such cases of the ship in which he will send destitute American seamen to the United States under the conditions named above.[1]

Entries to be made in cases of discharge.

290. Whenever a mariner is discharged by a consular officer, an official entry thereof shall be made upon the list of the crew and the shipping articles.

Entries to be made when seamen are to be shipped.

291. Whenever any master shall ship a mariner in a foreign port, he is required forthwith to take the list of his crew and the duplicate of the shipping articles to the consular officer at that port, who will make the proper entries thereon, setting forth the contract, and describing the person of the mariner; and thereupon the bond originally given for the return of the men shall embrace each person so shipped.[2]

Penalty for not complying with certain legal requirements.

292. It is provided by the 19th section of the act approved July 20, 1840, that if any master of a vessel shall proceed on a foreign voyage without the documents required by the first and second sections of the act, or refuse to produce them when required, or to perform the duties imposed by the said act, or shall violate the provisions thereof, he shall be liable to each and every individual injured thereby in damages, and shall, in addition thereto, be liable to pay a fine of one hundred dollars for each and every offence, to be recovered by any person suing therefor in any court of the United States in the district where such delinquent may reside or be found.

[1] Opinions of Attorneys General, vol. IV, p. 186.

[2] Statutes at Large, vol. V, p. 395.

Masters required to apply to consular officers for the performance of official services.

293. By the 28th section of the act of August 18, 1856, it is provided, that it shall be the duty of every master and commander of a ship or vessel of the United States, whenever he shall have occasion for any consular or other official service which any consular officer of the United States shall be authorized by law or usage officially to perform, and for which any fee shall be allowed by the said rates or tariffs of fees as aforesaid, to apply to such one of the said officers as may then be officially residing at the consulate or commercial agency, if any there be where such service shall be required, to perform such service; and the said master or commander shall pay to the consular officer such fees as shall be allowed for such service by the tariff of fees prescribed by the President, and if any such master or commander shall omit so to do, he shall be liable to the United States for the amount of the fees lawfully chargeable for such services, as though the said services had been performed by such officer.

Ships' papers to be retained in certain contingencies.

294. All consular officers are authorized and required to retain in their possession the papers of ships and vessels deposited with them as directed by law, till payment shall be made of all demands and wages on account of such ships and vessels.[1]

[1] Statutes at Large, vol. XI, p. 63.

CHAPTER XIX.

DUTIES OF CONSULAR OFFICERS IN RELATION TO SEAMEN OF THE UNITED STATES.

Relief of seamen.

295. By the fourth section of the act of February 28, 1803, it is made the duty of consular officers to provide for American mariners and seamen who may be found destitute within their districts, sufficient subsistence and passage to the United States, in the most reasonable manner, at the expense of the United States, subject to such instructions as the Secretary of State shall give; and it also provides for the manner in which such mariners are to be transported to the United States.[1]

Relief and discharge of Seamen.

What seamen are to be relieved.

296. In order that consuls may understand what seamen are embraced within the provisions of the several acts of Congress relative to the relief of destitute seamen, the payment of extra wages in case of discharges from vessels, and the passage of destitute seamen to the United States, they are instructed that all seamen who are citizens of the United States, except such as are regularly shipped in foreign vessels, and all foreigners regularly shipped in American vessels *at any port in the United States*, are to be regarded as American seamen and citizens within the provisions of the said acts.

Kind of relief.

297. The relief to be provided includes board, lodging, and clothing, also medical attendance, when

[1] Statutes at Large, vol. II, p. 204.

necessary; all to be on the most reasonable scale consistent with the comfort and proper support of the individual.

Examination of seamen.

298. Seamen applying for relief must be examined touching the manner of their being left destitute, and the name of the vessel, and her master, on board of which they last shipped, and the time and place, and cause of discharge; and, if it shall appear from such examination that they have been discharged from any American vessel contrary to the provisions of the third section of the act of 28th February, 1803, or of any other provisions of the said act or other laws of the United States, in every such case it shall be the duty of the consular officer to report the facts to the Department of State, with such other information as may enable it to cause prosecution to be instituted for such breach of the laws, designating the places at which the necessary witnesses may be found.

List of seamen discharged and relieved to be kept.

299. Every consular officer is required to keep a detailed list of all mariners discharged by him, in accordance with the prescribed form, (No. 16,) specifying their names and the names of the vessels from which they were discharged, and the payments, if any, afterwards made on account of each, and to make official returns of the said list to the Fifth Auditor.

Account to be kept of sums expended in relieving seamen.

300. In all cases of relief afforded, whether the seamen who have received it be returned to the United States or not, an exact account must be furnished, in the returns made by a consular officer, of the name of the individual, and of the ship, her master, owner, and the port to which she belonged, to-

gether with the sum expended, with vouchers, where, from the nature of the case, they can be procured.

Entry to be made on crew list and shipping articles of seamen discharged.

301. Every consular officer of the United States will make an official entry of every discharge which he may grant on the list of the crew and shipping articles of the vessel from which any mariners shall be discharged; specifying the payment, if any, which has been required in each case. (See Form No. 41.)

Liability of shipmasters for tonnage duty in certain cases.

302. By the act of March 1, 1817,[1] American vessels, on arrival from foreign ports, are subject to a tonnage duty of fifty cents per ton, unless the officers and two-thirds of the crew are, for the whole voyage, American citizens. Whenever application is made by the master of an American vessel for the discharge of a seaman, he being an American citizen, the consular officer will be careful to remind the said master that the consular certificate of the discharge will not exempt his vessel from the payment of the tonnage duty incurred as above. The only exemption provided by law is in cases of sickness, death, desertion, or being made prisoners of war, which must be respectively certified to by a consular officer of the United States. (See Form No. 42.) The attention of consular officers is specially called to the liability which may thus be incurred, the Treasury Department having no power to remit the penalty.[2]

Duty of consular officers in discharging American seamen.

Application for discharge of seamen.

303. Whenever application is made to a consular officer for the discharge of a seaman, he will be guided by the provisions of the 26th section of the act of August 18, 1856, and the two following sections of these Instructions.[3]

[1] Statutes at Large, vol. III, p. 352.

[2] Decisions of the Treasury Department, No. 63, edition of 1856, p. 77.

[3] Statutes at Large, vol. XI, p. 62.

Consular officers accountable for the extra wages.

304. Consular officers are *reminded*, that if they discharge any seaman or mariner, and neglect to require the payment of and collect the extra wages required to be paid in such case by the act of February 28, 1803, or that of July 20, 1840, as far as those acts remain in force under the act of August 18, 1856, they are accountable to the government of the United States for the full amount of its share of such wages, and to such seaman or mariner to the full amount of his share thereof. If any seaman or mariner shall, after his discharge, incur any expense for board or other necessaries at the port or place of his discharge before shipping again, such expense shall be paid out of the share of the three months' wages to which he is entitled, which shall be retained for that purpose, and after the payment of all expenses thus incurred, the remaining part of such share only is to be paid over to him when he shall have engaged on board of some vessel. In cases of wrecked or stranded ships or vessels, or ships or vessels condemned as unfit for service, no payment of extra wages is required.

Expenditures for the relief of a seaman to be deducted from his share of the extra wages.

Extra wages; when not to be required.

Reasonable cause required for the discharge of a seaman.

305. Consular officers are not to discharge a seaman for slight or venial offences, and certainly not for a single offence unless of a very aggravated character. If the charge be negligence, drunkenness, disobedience, or dishonesty, the question should be, whether the misconduct was of such a degree as to show an habitual inattention to or unfitness for duty, having always in view the particular station of the party and the nature of his duty. If the allegation be that the seaman is a dangerous person, from a spirit of insubordination, or hostility to the

master, it has been held that the master must show that the danger is such as would affect the mind of a man of ordinary firmness. But even in cases of aggravated offences, or of a continued course of conduct which would justify the discharge of a seaman, if he repents and offers amends, the principle which is always operating in his favor against all kinds of forfeiture, with very rare exceptions, intervenes to restore him to his rights, and he is ordinarily entitled to be received again on board. To deprive a mariner of the benefit of this rule, it should appear that the misconduct amounts to a radical disqualification, as dishonesty and habitual drunkenness in a steward; or that the party is really dangerous to the peace and safety of the ship. These principles receive additional force from the general policy of the laws of the United States, which discountenances the discharge of seamen in foreign ports. The various enactments in respect to destitute seamen sufficiently show the parental solicitude of the government for the preservation and protection of the seamen of the country.[1]

What seamen are entitled to relief.

Extra wages; when to be paid to seamen.

306. The under officers (below that of captain) are included in the provisions of the law for the relief of seamen; but the two months' wages are not to be paid in any case, unless the person so discharged has engaged on board of some vessel to return to the United States, and does not previous to his sailing become a charge upon the consulate.

Shipment of seamen to an intermediate port.

307. If no occasion offers of a direct return, an engagement on board of a vessel ultimately to return will be sufficient; or if no such vessel offers, the seaman will be entitled to his two months' wages on his

[1] Curtis's Merchant Seamen, pp. 149, 150; Ware's R., pp. 65, 325.

shipping for an intermediate convenient port, provided the consular officer has incurred no expenses which will absorb a part or the whole thereof; and a statement of the circumstances should at the same time be transmitted to the consular officer at such intermediate port.

Insubordination and Mutiny.

Disobedience of mariners on shipboard.

308. Great care must be taken, in all cases of accusations against mariners by their officers, not to confound a simple and casual disobedience of orders with the crime of mutiny, which has in some cases been made in order to justify a discharge of seamen in a foreign port contrary to the directions of the act. In this, as in all other cases, the consular officers are particularly instructed, while on the one hand they support the masters of vessels in the exercise of their proper authority, on the other to discourage and prevent all oppression of seamen by their officers.

Services of local police.

309. For the purpose of "discountenancing insubordination," when brought within their official notice, consular officers may request, if they find it absolutely necessary, the assistance of the local police to arrest and secure the offender, and cause him to be put on board of a ship to be sent home, or to be temporarily imprisoned, by permission, within the consular district.

Insubordination.

310. Any deliberate disobedience, on the part of a mariner, of any justifiable order of his commander in relation to the business of his ship, without regard to the tone or manner of the order, is an act of insubordination subject to immediate punishment by the commander and to the consular jurisdiction in-

tended to be given by the act of 1840.[1] Every ship-master is bound, however, to treat his men with humanity; and this obligation is not the less imperative because stipulations, which may look like restrictions on his power, are not inserted in the shipping articles; and a seaman who is subjected to cruel and oppressive treatment on the part of the master may abandon the vessel before the termination of the voyage, without subjecting himself to a forfeiture of wages.[2]

Limitation of the power of a shipmaster.

311. Consular officers are required to discountenance insubordination by every means in their power; and where the local authorities can be usefully employed for that purpose, to lend their aid and use their exertions to that end in the most effectual manner.

Insubordination to be discountenanced.

312. Consular officers have no right, however, to exercise any authority on board of a vessel, if the officer in command is obeyed by his crew, or by a sufficient number of them to enable him to navigate the vessel; but the lawful authority of the captain or master of a vessel is to be maintained, if necessary, by the aid of the consular officer. In this, however, measures should not be resorted to, unless with great caution, as they are only justified by the strongest necessity, and may subject the consul to prosecution in the United States.[2]

Limitation of the power of consular officers on shipboard.

313. If American seamen arrive in an American vessel at any port within the jurisdiction of a United States consul, and such seamen refuse to do duty, and the vessel is bound to the United States, they should be confined on shipboard by the captain, and not be discharged by the consular officer, unless, in the

Mutiny.

[1] Statutes at Large, vol. V, p. 295.

[2] Ware's R., pp. 104, 115.

exercise of his best discretion and judgment, the case is one that imperatively requires the adoption of such a course; in which event, the consular officer should make it clearly evident in his report to the Department. If the captain is able to navigate his ship, and proceed to the United States with them all on board, he should do so; but in case the vessel would probably be endangered thereby, he should deliver so many to the consular officer, to be sent home for trial, as will relieve him from any reasonable fear of a revolt among the crew or the capture of the vessel.

Mutineers to be sent to United States.

314. If the vessel is outward bound, and the crew mutiny, the mutineers should be delivered to the consular officer to be sent home; and, until such an opportunity offers, he should take the best care of them he can, with the aid of the local authority, which may be requested by the consular officer in cases of great emergency. It is to be remembered that such aid cannot be demanded as a right, except in cases of treaty stipulation to that effect.

Duty of consular officer in cases of piracy or mutiny.

315. Whenever piracy, mutiny, or any other offence against the laws of the United States, shall have been committed on board of any vessel of the United States coming into the consular district, it is the duty of the consular officer, after taking the depositions necessary to establish the facts, to apply to the local authorities for means of securing the offenders while they remain in port, and to provide the means of sending them, without delay, to the United States for trial; and in all such cases, where the vessel on board of which the offence was committed is not bound to the United States, he is

directed to procure two of the principal witnesses to be sent home with the person accused; and he will, at the same time, transmit certified copies of all the depositions he has taken in relation to the offence, an exact detail of all its circumstances, and such information as may be necessary to secure the conviction of the offenders, to the United States attorney of the district to which the prisoners are sent, and also a copy of the same to this Department. The consular officer will be especially careful to specify particularly the names and residences of all the witnesses whose testimony may be necessary at the trial; and he will, if possible, in all cases send the offenders to the port in the United States from which the vessel cleared.

Desertion.[1]

Deserters to be apprehended.

316. In countries with which the United States have stipulations by treaty or convention to authorize it, or where it is permitted by the local authorities, consular officers may apprehend deserters as fugitives from justice, and imprison them until required by their commander.

Duty in case of the desertion of a seaman.

317. It is required by the 25th section of the act of August 18, 1856, that whenever any seaman or mariner of any vessel of the United States shall desert such vessel, the master or commander of the vessel shall note the fact and date of the desertion on the list of the crew, and the same shall be officially authenticated at the port or place of the consulate or commercial agency first visited by the vessel after such desertion, if it shall have occurred in a foreign country. (See Form No. 43.)

[1] Abbott on Shipping, sections 174, 175, 644, 652.

Desertion defined.

318. Desertion is an offence of the grossest character; in the sense of the maritime law, it has been defined to be a quitting of the ship and her service, not only without leave, and against the duty of the party, but with an intent not again to return to the ship's duty. There is thus a distinction taken between a mere absence without leave and a final quitting of the ship with the intention of not returning to it. The former absence is punishable with greater or less forfeiture of wages; the latter is the offence which incurs the forfeiture of all wages. It is desertion wantonly to neglect or refuse to rejoin the ship, after an absence with leave, when ordered to return; but it is not desertion, when a mariner, through excess of indulgence, overstays his time of leave, and when he has not refused or neglected to comply with an order to return; it is not desertion to leave the ship on account of cruel and oppressive treatment; or for want of sufficient provisions in port, when they can be procured by the master; or when the voyage is altered in the articles without consent.[1]

Examination of seaman in case of desertion.

319. It having been found that the power vested in consuls by the 4th section of the act of February 28, 1803, has, in many instances, been so injudiciously exercised, that a provision for the relief of mariners and seamen of the United States who may be found destitute within their districts has often become a premium for desertion, consular officers are hereby specially enjoined, in the case of every deserter who may apply for the benefits of this act, to ascertain clearly and satisfactorily that he is justly entitled to the

[1] Curtis's Merchant Seamen, pp. 129, 131; Sumner's R., vol. I, p. 373; Ware's R., p 313.

same, and that his leaving the ship was caused by improper or cruel treatment, or otherwise justifiable.

When three months' pay is to be required in case of desertion.

320. In all cases where deserters are apprehended, the consular officer shall inquire into the facts; and, if satisfied that the desertion was caused by unusual or cruel treatment, the mariner shall be discharged, and receive, in addition to his wages to the time of the discharge, three months' pay; and the officer discharging him shall enter upon the crew list and shipping articles the cause of discharge, and the particulars in which the cruelty or unusual treatment consisted, and subscribe his name thereto officially.

Justifiable desertion.

321. The benefits of the said act are sometimes imperatively invoked, as in the case of a mariner driven from his ship by intolerable treatment—treatment proceeding, sometimes from reckless cruelty, and sometimes, as is believed, with a design to make the seaman leave his vessel when his services have ceased to be of value for the completion of the cruise. But, in meeting the requisition of such unfortunate seamen, consular officers are cautioned so to use the funds appropriated by Congress as not to encourage sailors to break their shipping engagements from a confidence that in so doing they do not forfeit their claim to relief and protection at the hands of consular officers.

Wages of Seamen.[1]

General rule respecting wages of seamen.

322. The general rule in regard to the wages of seamen is, that such wages on board of merchant ships are payable out of the earnings for freight; and if no freight is earned, by reason of the perils

[1] Abbott on Shipping, sec. 619, et seq.

of the sea or capture by the enemy, and not by the fault or neglect of the master or owner, no wages are due.

Formula.

323. The maxim that "freight is the mother of wages" is a formula which, though it has obtained general currency, is to be carefully scrutinized in its application. A distinction is to be made between those accidents by which the voyage is interrupted and the freight lost, without the fault of the owner or master, and other causes arising from the acts of the owner or master.[1]

Seamen; when entitled to wages.

324. If the voyage or freight be lost by the negligence, fraud, or misconduct of the owner or master, or voluntarily abandoned by them; if the owner has contracted for freight upon terms or contingencies differing from the general rules of the maritime law; or, if he has chartered his ship to take a freight at a foreign port, and none is to be earned on the outward voyage,—in all these cases the mariner is entitled to wages, notwithstanding no freight has accrued.

Wages when freight is or might be earned.

325. Where freight is, *or might be*, earned, wages are due for the full period of employment in the ship's service, whether the freight is actually received by the owner or not. No private contract between the owner and the shipper, with regard to freight, can affect the right to wages.

Wages as affected by shipwreck on the outward voyage.

326. If the vessel and cargo are lost on the outward voyage, before any freight is earned, and no part of either is saved by the crew, the wages of the seamen are also lost, and the original contract therefor is annulled, but the advance wages are not in such case to be returned.

[1] Curtis's Merchant Seamen, p. 270, et seq.

327. If the vessel is lost on the homeward voyage, and freight has been, or might have been, by the general principles of law, earned to an outward port, the wages for the outward voyage to that port are deemed to have been earned. No abatement is to be made from the wages in case of the freight being partially lost or diminished by maritime accidents or perils.

Wages when the vessel is wrecked on the homeward voyage.

328. If freight is earned, whether it be large or small, the whole wages, which are deemed to have been earned, are to be paid without deduction.

Whole wages; when to be paid.

329. When the vessel is lost between intermediate ports, the wages are to be calculated up to the last port of the delivery or receipt of cargo, and for half the time that the ship lies there.

When the vessel is lost between intermediate ports.

330. Where a voyage is divided by various ports of delivery, a claim for proportional wages attaches at each of such ports of delivery upon safe arrival; and all attempts to evade or invade that title, by renunciations obtained from the mariners without any consideration, by collateral bonds, or by contracts inserted in the body of the shipping artcles, not usual, not fully explained to these illiterate and inexperienced persons, are ineffectual and void.

Proportional wages.

Protection and care of Seamen.

331. It is provided by the 16th section of the act of July 20, 1840, that the crew of any vessel shall have the fullest liberty to lay their complaints before the consular officer in any foreign port, and shall in no respect be restrained or hindered therein by the master or any officer, unless some sufficient and valid objection exist against their landing; in which

Complaints of seamen to be heard.

case, if any mariner desire to see the consular officer, it shall be the duty of the master to acquaint him with it forthwith, stating the reason why the mariner is not permitted to land, and that he is desired to come on board; whereupon it shall be the duty of such officer to repair on board and inquire into the causes of the complaint, and proceed therein as the act directs.

Consular protection of seamen.

332. One essential object of the consular appointment is the protection of American mariners—a class of our fellow-citizens whose habits of life require a kind guardianship of their persons and interests in foreign countries, but at the same time a strict vigilance over their conduct. The law makes it the duty of American consular officers to provide, at the public expense, for all mariners and seamen of the United States merchant marine[1] who may be found destitute within their respective districts. It is no bar to their relief that they have been left abandoned by the wreck of their vessel, or otherwise, on a foreign shore. They are still "mariners and seamen of the United States," and the circumstance of their destitution entitles them to all the benefits and protection provided by the fourth section of the act of February 28, 1803. They are within the words of the act, and they are within all the reasons of humanity and policy which dictated its provisions.[2]

Rules of Mr. Jefferson and Mr. Webster touching seamen.

333. The principles which have heretofore been established in regard to the protection of seamen, are plain and well settled. The rule laid down by the distinguished person who first held the office of

[1] Opinions of Attorneys General, vol. III, p. 683.

[2] Opinion of Attorney General, May 12, 1852.

Secretary of State, Mr. Jefferson, was, "that the vessel being American, shall be evidence that the seamen on board are such;" and, fifty years afterwards, it was restated with no less precision by one of the most eminent of American statesmen, "that in every regularly documented merchant vessel, the crew who navigate it will find their protection in the flag which is over them."[1]

[1] Mr. Webster to Lord Ashburton, Works of Daniel Webster, vol. VI, p. 325.

CHAPTER XX.

THE DUTIES OF CONSULAR OFFICERS IN RELATION TO WRECKS.

Duties of consular officers in cases of wrecks.

334. By the third section of the act of Congress of April 14, 1792, consular officers, in cases where ships or vessels of the United States shall be stranded on the coast of their respective consulates, are required, as far as the laws of the country permit, to take proper measures, as well for saving such ships or vessels, their cargoes, and appurtenances, as for storing and securing the effects and merchandise saved, and for taking an inventory or inventories thereof; and the merchandise and effects saved, with the inventory or inventories, must, after deducting therefrom the expense, be delivered to the owner or owners. But no consular officer is permitted to take possession of any such goods, wares, merchandise, or other property, when the master, owner, or consignee thereof is present, or capable of taking possession of the same.[1]

Course of proceeding.

335. In the execution of the duties prescribed by this part of the act, every consular officer is instructed that all vessels, parts of vessels, and any portion of their cargo, belonging to citizens of the United States, saved, and brought into the consular jurisdiction after being wrecked, or in consequence of any disaster at sea, are to be proceeded with in the same manner as if the vessel had stranded within the consular jurisdiction; and if salvage be claimed and allowed by a competent tribunal, the remainder

[1] Statutes at Large, vol. I, p. 225.

of the effects, or the proceeds thereof, if sold, shall be disposed of in the same manner as is directed in the twenty-first chapter of these Instructions respecting the estates of persons dying intestate; provided, in the case of salvage, that the court deciding the same will permit the consular officer to receive the effects and remainder of the property after the salvage is paid.

Owner's interterest to be protected.

336. In some countries (as in Sweden) chartered companies have the privilege of taking possession of all property wrecked; in others, it may be vested in particular magistrates or officers. In such cases the consular officer is not to interfere with the legal function of the proper officer, but he may ask leave, as the representative of the absent master or owner, or as his official adviser if he be present, to assist at the taking of the inventory, the sale, and all other proceedings in relation to the property. It is his duty to protect the interest of the owner, and, if his reasonable requests are not complied with, to take the necessary evidence of the facts in the case, and transmit it to the Department of State.

Wrecks of American vessels to be reported.

337. When any American vessel is wrecked within his jurisdiction, the consular officer is to give immediate notice to the Department of State, naming the vessel and her owners or master, and giving in detail as many of the circumstances attending the loss of the property as may be known at the time.

Disposition of property.

338. When there is no impediment from the laws of the country, all proceedings in relation to property wrecked are to be the same as those prescribed in the case of property of intestates, and so also with regard to the taking possession and disposing

of whatever effects, whether wrecked, abandoned, or otherwise unrepresented within a consulate, belonging to any citizen of the United States.[1]

Legal proceedings may be instituted.

339. A consular officer is allowed to institute proceedings for the recovery of property, in behalf of citizens of his own country, although they may be unknown to him; yet restitution cannot be decreed without specific proof of the individual proprietary interest.[2]

Rescue of American seamen by foreign vessels to be reported to Department of State.

340. Whenever a consul or commercial agent shall receive authentic intelligence of the rescue from shipwreck of seamen or citizens of the United States by the master or crew of any foreign vessel, he will, without delay, transmit to the Department a statement of the facts, including the name of the master of the foreign vessel and of the country or port to which he may belong, and also the names of such of the crew as may have especially distinguished themselves. This statement will be laid before the President, who is expressly authorized by Congress to make suitable acknowledgments to the masters and crews of foreign vessels for their services in rescuing from shipwreck citizens and vessels of the United States. The consular officer will state in his report the names of the passengers and crew who may have perished, and also of the survivors, and what disposition has been made of them.

Assistance to be rendered.

341. He will promptly render such assistance as may be in his power to his shipwrecked countrymen, and institute, whenever it is practicable, energetic proceedings for the protection of their property; but this instruction gives no authority to incur any

[1] Toler vs. White, Ware, p. 227; Henshaw's Manual, p. 113.

[2] Wheaton, vol. X, p. 67; Mason's R., vol. I, p. 21.

expense therefor in the expectation of its being defrayed by the Department of State; the appropriation for the relief and protection of American seamen in foreign countries which is made by Congress not being applicable to such purposes. Whenever it is necessary for the safety of the property, the consular officer will apply to the local authorities for assistance.

Papers to be preserved.

342. He will carefully collect and preserve all the papers and documents relating to the ship or its cargo, or to the passengers, and deliver them to the parties to whom they belong, or to the representatives of such parties; or, in the event of their death or non-appearance, he will transmit them to this Department.

CHAPTER XXI.

DUTIES OF CONSULAR OFFICERS IN RELATION TO THE ESTATES OF INTESTATES.

Duties of a consular officer touching unrepresented American property.

343. The duties of a consular officer respecting the property of Americans relate mostly to the personal estates of citizens of the United States who die intestate within his consular district, or to wrecks or other abandoned property belonging to them, for which no owner or legal representative appears.[1]

Notice to be published of the death of American citizens.

344. For the information of the representatives of the deceased, the consular officer is directed to cause a notice of the death of every citizen of the United States dying intestate within his consular district, to be published in some newspaper of the country, and also to forward a like notice to the Department of State, that the same may be published in the State to which the deceased belonged; he will also communicate any information which he may have obtained respecting the residence of the family and friends of the deceased.

Perishable property to be sold, and under what circumstances.

345. By the second clause of the second section of the act concerning consular officers, approved April 14, 1792, whenever a citizen of the United States, other than seamen belonging to any ship or vessel, shall die within the consular district, it is made the duty of the consular officer to take possession of his effects, and to sell at public auction such part of them as may be of a perishable nature,

[1] Henshaw's Manual, p. 101.

and such further part as may be necessary for the payment of the debts of the deceased.[1] In order to execute this power, the following are prerequisites: that the laws of the country permit such administration, or that it be stipulated by treaty or convention; or that the person has died without any legal representative, partner in trade, or trustee, to take care of his effects.

Inventory to be taken.

346. An inventory must be taken, in the first instance, of all the effects of the deceased, with the assistance of two merchants of the United States, or, for want of them, of any other two respectable persons. This inventory must be entered in the proper consular record book.

Selection of appraisers.

347. In performing this branch of the consular duty, great attention is required. Merchants of the most respectable standing are to be selected as the assistants of the consular officer. Although appraisement is not mentioned in the act, consular officers are instructed to have the apparent value of every article affixed to it.

Evidences of debt to be included in the inventory.

348. If among the papers of the deceased are found any evidences of debts, although they may not be due in the consular district, yet they are to be placed in the inventory for the information and security of individuals in the United States who are interested.

Commercial and letter books to be certified.

349. The commercial books of the deceased are to be placed in the inventory, and particularly described, the number of pages that each of the said books contains being mentioned; and the consular officer will place a certificate, signed by himself, at the beginning and the end of each book, in such manner as to

[1] Statutes at Large, vol. I, p. 255.

prevent any addition being made to them. The letter books of the deceased are comprehended in the term commercial books.

What credits to be collected, and what debts to be paid.

350. The consular officer will also collect the debts due to the estate of the deceased in the country where he died, and, with the amount thus collected, pay the debts which the deceased may have there contracted; but he is to pay no claim, not reduced to a judgment, for damages on account of any wrongful act alleged to have been done by the deceased.[1]

Signification of "effects."

351. If among the effects of the deceased (the word "effects" being one of very comprehensive signification, and embracing property of every description, inclusive of debts due) are found certificates of *foreign* stocks, loans, or other property, the consular officer is directed to charge on the amount thereof such commissions, if any, as are authorized in the consular tariff of fees on the settlement of estates of American citizens; also to report the amount in his quarterly statement of fees, and, if a salaried consular officer, to hold the same subject to the order of the Treasury Department; but he is not to embrace in the inventory such personal estate as the deceased may have left in the United States, or beyond the consular district. The consular officer, from the necessity of the case, acts as the collector of the effects within the consulate; the provisions of law do not extend his power beyond this necessity. The personal estate of the deceased in the United States remains to be administered by the legal representative at home, according to the laws of the State or district to which the deceased

Disposition of personal property at home and abroad, and limitation of the consular power.

[1] Sturgis vs. Slacum, 18 Pick., p. 36.

belonged. Under the provisions of the second section of the act above mentioned, the consular officer is "to take possession of the personal estate left by any citizen of the United States," where "the laws of the (foreign) country permit," which, of course, must be the personal estate left within the jurisdiction of such foreign country. He is only to collect "the debts due to the deceased in the country where he died." In like manner, he is not to pay the debts due from the deceased at home, but only such debts as "he shall have *there* (in the foreign country) contracted."[1]

Sale of perishable property.

352. The consular officer is further directed to sell at auction such part of the estate as shall be of a perishable nature.[2] All sales of the property of the deceased must be at "auction, after reasonable public notice." In the execution of this duty, the consular officer is instructed to give the same previous notice that is directed by the laws of the country for the judicial sale of property in execution, and at some public place; but whether it be required in judicial sales or not, the notice, required by section 344, must be given in at least one of the newspapers of the place, if any be printed there, both in English and in the language of the country. No property shall be sold as being of a perishable nature, until it has been viewed by two respectable merchants, and by them certified to be of that description.

Sale of other property to pay debts.

353. If the proceeds of such sales, with the funds of the estate on hand, should not be sufficient to liquidate the legal claims against the estate, the consular officer is authorized to dispose of any other

[1] Instructions to Consul Walsh, MS., September 2, 1845.

[2] Statutes at Large, vol. I, p. 255.

portion of the property which may be necessary for that purpose.

Proceeds, when to be remitted.

354. In one year after the death of the intestate, the consular officer is also directed, by the second section of the act aforesaid, to transmit the remainder of the estate (after paying the debts and other lawful charges) to the Treasury of the United States, in money, to be holden in trust for the legal representatives; but if at any time before such transmission the legal representative of the deceased appear, and demand the effects in the hands of the consular officer, the latter shall deliver them up, the fees being paid, and shall cease his proceedings.

Account to be kept.

355. In the execution of the duty prescribed by the preceding section, the consular officer is instructed to keep a regular account of all moneys received, as well of effects sold as of credits collected, and all sums expended, taking duplicate receipts, expressing on what account the sums are paid, and numbering them regularly; one of the said duplicates is to be kept by the consular officer, and the other delivered to the representative of the deceased, or transmitted to the Treasury Department, if no representative appear.

Account to be sent to the Treasury Department.

356. He must also enter on his consular books a regular account between himself and the estate of the deceased, in which he shall enter to his own debit all the moneys and effects that come into his hands; and to his credit all the payments he may make; and, finally, the remainder that he may deliver over or remit, so as to close the account. A copy of this account shall be delivered to the representative of the deceased, or transmitted to the Treasury Department, as the case may be.

357. As soon as an estate shall be finally settled so far as the consular officer is concerned, he shall give notice to the Department of State, designating the amount in money, or the effects, as the case may be, which have been delivered to the representative of the deceased. Final settlement.

358. If there should be several parties, each claiming to be the representative of the deceased, and demanding the effects, the consular officer must direct the parties to determine their rights before the proper judicial tribunals. Opposing claimants.

359. The consular officer should at all times be prepared, and he is expressly required, to deliver over the effects and papers of the estate in his possession at any stage of the proceedings, after deducting the fees and expenses, to any legal representative of the deceased, or appointed trustee, who presents unquestionable evidence of authority to act as such. Delivery of property.

360. It is provided by the 29th section of the act of August 18, 1856, that if any citizen of the United States dying abroad shall, by any lawful testamentary disposition, leave special directions for the custody and management by the consular officer of the port or place where he shall die, of the personal property of which he shall die possessed in the country, as contemplated by the act entitled, "An act concerning consuls and vice consuls," approved April 14, 1792, it shall be the duty of such officer, so far as the law of the country will permit, strictly to observe such directions; and if any American citizen so dying shall, by any lawful testamentary disposition, have appointed any other person or persons than such officer to take charge of and manage such Statute requirements relating to consular duties affecting property.

property, it shall be the duty of the consular officer, whenever required by the person or persons so appointed, to give his official aid in whatever way may be necessary to facilitate the proceedings in the lawful execution of the trust; and, so far as the laws of the country permit, to protect the property of the deceased from any interference of the local authorities of the country where such citizen shall die; to this end it shall be the duty of the consular officer to place his official seal upon all or any of the personal property or effects of the deceased, and to break and remove such seal, whenever he may be required by such person or persons, but not otherwise.

Cautionary injunctions.

361. In the execution of these provisions, every consular officer will exercise discretion and care; for these injunctions must be understood with the necessary legal reservations. It is obvious that a will, to have legal effect, must be a *proved* will; and a will perfectly valid in form may be null because obtained by unlawful influence.[1] In the performance of such acts regarding the estate as the consular officer may, by virtue of the act of April 14, 1792, lawfully perform, namely, taking the custody of the property, preserving it from waste, collecting credits, paying local debts, and selling the *personal* estate for transmission to the Treasury, he must, in the absence or non-appearance of the executor, co-partner, or other "legal representative" of the deceased, observe such directions as the latter may have given him as to such mere provisional acts of consular intervention in the estate. Except in the mere temporary settlement, collection, and custody of the

[1] Williams on Exec., vol. I, pp. 42, 43.

property of a decedent, no agent appointed by will or otherwise, and no public officer empowered by act of Congress, can safely venture to deal with a decedent's estate; for either that estate has been disposed of by lawful testamentary disposition to devisees or legatees, or it has become the property of the creditors of the decedent, or it has descended upon persons legally entitled by marriage or kinship; and, in either case, if it be personal property, it must pass through the hands of a duly appointed and judicially recognised executor or administrator.

Duty and responsibility of consular officers touching property.

362. A consular officer is, by the law of nations and by statute, the provisional conservator of the property within his consulate belonging to his countrymen deceased therein. This general duty of consular officers is fully recognised by the recent act regulating the diplomatic and consular systems of the United States.[1] It behooves every consular officer, however, to consider well, before he presumes to follow, *in anything beyond the acts of custody, settlement, and collection*, prescribed by the act of April 14, 1792, any directions of a decedent not possessed in law of the force of a "testamentary disposition," or directions of any agent of the deceased, however nominated, unless that agent be the duly appointed executor or administrator. Otherwise, the consular officer may be called to account by some creditor of the deceased, or by a lawfully appointed executor of his, or by his family and heirs-at-law.

Extent of consular authority touching property.

363. In short, the consul should bear constantly in mind, that he cannot *as consul* administer on the estate, nor as consul aid any other person in so administering, without *judicial* authorization; and that

[1] Statutes at Large, vol. XI, p. 63.

the whole extent of his consular authority is to guard and collect the assets of a decedent, and to transmit them to the United States, or to aid others in so guarding, collecting, and transmitting them, to be disposed of therein pursuant to the law of the decedent's State.[1]

Disposition of of real estate.

364. If the property of the decedent be real estate—the immovable property of the civil law—then its disposition depends altogether on the laws of the place, unless there be treaty stipulations to the contrary, or the succession consist of personal estate exclusively. The local authorities are alone competent to determine questions of inheritance and succession.

Administration of personal effects.

365. As to movables, or personal effects, then, also, unless the contrary be stipulated by treaty, the *administration* of the estate of a decedent is primarily a question of the local jurisdiction, and a consular officer can intervene only so far as the local law may permit, though the distribution of the estate will not of necessity be governed by the local law.

366. Every consular officer of the United States will remember that he may intervene by way of advice, or in the sense of surveillance, but not otherwise *as a consular officer*, and of right.

Minor heir.

367. Thus, if the decedent, being a citizen of the United States, leaves in a foreign country a minor heir, a consular officer may intervene to see that he has a proper guardian to secure his interest in the succession.

Safe-keeping of will.

368. If the decedent leaves a will intended to operate in the United States, it is the right of the consular officer and his duty, if the circumstances

[1] Opinion of the Attorney General, MS., July 10, 1855.

require it, that is, in the absence of adult heirs on the spot, to see to the safe-keeping of the will, and its transmission to the parties entitled.

Extent of jurisdiction.

369. As to the extent of the country to which the consular officer's faculty of superintendence reaches in matters of succession, that of course depends primarily on the instructions which he receives from the Department of State and the tenor of his *exequatur*.[1]

Force of local law.

370. The legislative acts of the United States, mentioned in the foregoing part of this chapter, proceed on the assumption that American consular officers in foreign countries will collect and remit the assets of deceased Americans. Their authority to do this will depend, of course, on the law of the foreign country; if permitted by that law, and so far as permitted, the consul may do it, but not otherwise, nor further, unless allowed by treaty. And so it is with respect to foreign consuls in the States of the Union.

Litigated questions and conflicting claims.

371. It seems very clear, that if any contentious question arises, as if there be debts due to the estate of the decedent, or conflicting claims upon it, there can be no settlement of the estate by the consul; it can be administered only by due appointment of the local authority.

Cases involving no dispute.

372. But if there be no litigious matter involved, or if a traveller or other transient person die with personal effects in hand, the consul may well take posession of the same for transmission to the decedent's country.

Treaty of Utrecht.

373. The true relations of the question are sufficiently illustrated by the tenor of an old article of a treaty between England and Spain, repeated by the

[1] Opinion of the Attorney General, MS., September 12, 1856.

treaty of Utrecht; according to which it is stipulated that the respective foreign consuls may inventory the effects of a deceased countryman, and remit them, without intervention of any local tribunal.[1]

Spanish law of November 20, 1724.

374. The difficulty of complying with this stipulation soon became apparent in Spain; in consequence of which the law of November 20, 1724, was passed, providing that the local authority shall make duplicate inventory, and shall hear and adjudge all contested matters.[2]

Discussion between England and Spain.

375. The same difficulty must of course have existed in England. Consuls, in one country or another, raised the question from time to time, until, in 1839 and 1840, by undergoing almost simultaneous discussion in Madrid and in London, by the claim of a British consul in Spain to exercise complete jurisdiction in the matter, which the Spanish government refused; and the claim of a Spanish consul in England, which the British government refused,—it was at length settled, to the effect, that, notwithstanding the treaty, the consular right on both sides must be limited to the inventory of the effects found in the dwelling of the deceased, subject always to the intervention of the local authorities, if in case of any contested right on the part of third persons.[3]

General rule.

376. But the general rule undoubtedly in all the countries of Christendom, is, that the local authority has power to take the inventory if it will, the functions of the consular officer being then limited to

[1] Miltitz des Consulats á l'Étranger, partie II, pp. 408, 414, 425.

[2] Novisima Recopilacion, lib. VI, tit. 13, l. 4.

[3] Requelme, Derecho Internacional, tome I, p. 422.

the right of assisting in behalf of the absent legal representatives of the deceased.[1]

Authority of foreign consuls in United States as to questions of succession.

377. Such, and all such only, except where special stipulations of treaty intervene to change the rule, is the admitted authority of foreign consuls as to questions of succession in the several States of the Union.[2]

[1] Santos, Traité du Consulat, tome I, p. 21; tome II, note 52.

[2] De Clercq et de Vallat, Guide des Consulats, p. 686; Opinion of the Attorney General, MS., September 15, 1855.

CHAPTER XXII.

DUTIES OF CONSULAR OFFICERS IN RESPECT TO CITIZENS OF THE UNITED STATES.

Presence of consular officer at his post.

378. It is the duty of a consular officer (unless absent with the permission of the President) to be always at his post, to watch over and protect, so far as he may be able, the commercial interests of his fellow-citizens, and to be ready to assist them with his advice on all doubtful occasions.[1]

Duty towards American citizens.

379. In the event of any attempt being made to injure American citizens, either in their persons or property, he will strive to uphold their rightful interests, and the privileges secured them by treaty, by representations in the proper official quarter. He will, at the same time, be careful to conduct himself with courtesy and moderation in all his transactions with the public authorities, and upon no account to urge claims on behalf of citizens of the United States to which he may not, after a faithful examination, believe them entitled.

Mode of seeking redress of grievances.

380. If redress cannot be obtained from the local administration, the consular officer will apply to the legation of the United States, if there be one in the country where he resides; and in all cases he will transmit copies of his correspondence on the subject, with a succinct report of his proceedings, to the Department of State, and also observe strictly the instructions which he may from time to time

[1] Act of August 18, 1856, section 19.

receive upon the subject, either from the legation or from the Department.

Contentions to be avoided.

381. Consular officers are cautioned not to engage in any contentions with the authorities of the places where they reside, but to observe on all occasions towards them a courteous but firm and dignified demeanor; and they will be careful to avoid the expression of private or excited feeling in their official communications.

Compensation for notarial services.

382. Consular officers are often called upon, by their fellow-citizens at home, or by those temporarily residing within their consulates, to investigate titles to property, examine official records, and prepare legal or notarial papers. For compensation for such services no provision is made by law; and it cannot reasonably be expected that consular officers should perform them gratuitously. When application is made to them for such purposes, they will either transact the business themselves, the rate of compensation being determined either by agreement or the custom of the place, or refer the party to a competent attorney or notary.

Consular officers authorized to administer oaths and perform notarial services.

383. By the 24th section of the act of August 18, 1856, the consular officer is authorized, whenever he shall be required, or may deem it necessary or proper so to do, within the limits of his consulate or commercial agency, to administer to or take from any person, an oath, affirmation, affidavit, or deposition, and also to perform any notarial act or acts, such as any notary public is required or authorized by law to do or perform within the United States. Every such oath, affirmation, affidavit, deposition, and notarial act administered, sworn, affirmed, taken,

had, or done, by or before any such officer, when certified under his hand and seal of office, is as good, valid, and effectual, and of like force and effect within the United States, to all intents and purposes, as if such oath, affirmation, affidavit, deposition, or notarial act had been administered, sworn, affirmed, taken, had, or done, by or before any other person within the United States duly authorized and competent thereto. It is further provided, that if any person shall wilfully and corruptly commit perjury, or by any means procure any person to commit perjury in any such oath, affirmation, affidavit, or deposition, within the intent and meaning of any act of Congress now or hereafter made, such offender may be charged, proceeded against, tried, convicted, and dealt with, in any district of the United States, in the same manner, in all respects, as if such offence had been committed in the United States before any officer duly authorized therein to administer or take such oath, affirmation, affidavit, or deposition, and shall be subject to the same punishment and disability therefor as are or shall be prescribed by any such act for such offence. Any document purporting to have affixed, impressed, or subscribed thereto or thereon, the seal and signature of the officer administering or taking the same in testimony thereof, is to be admitted in evidence without proof of any such seal or signature being genuine or of the official character of such person; and if any person shall forge any such seal or signature, or shall tender in evidence any such document with a false or counterfeit seal or signature thereto, knowing the same to be false and counterfeit, he shall be deemed and

Penalty for perjury.

Penalty for forgery.

taken to be guilty of a misdemeanor, and on conviction shall be imprisoned not exceeding three years nor less than one year, and fined in a sum not to exceed three thousand dollars, and may be charged, proceeded against, tried, convicted, and dealt with therefor in the district where he may be arrested or in custody.

Offences committed at sea punishable in the United States, and offenders to be demanded.

384. If a citizen of the United States be charged with a criminal offence alleged to have been committed at sea on board of an American vessel, it will be the duty of the consular officer to require that the individual so accused be delivered to him, to be sent home for trial.

Offences committed in port; by whom cognizable.

385. If, however, the offence be committed on board an American vessel in a foreign port, the consular officer can exercise no jurisdiction in the premises, except under the provisions of express treaty stipulation, established usage, or through the courtesy of the official authorities of the country, who, from motives of international comity, may refer the matter, at the request of the consular officer, for adjudication to the judicial authorities of the United States.

Offences committed on board an American vessel in a foreign port by any of its passengers or crew punishable in the United States.

386. Circumstances of recent occurrence make it advisable for consular officers clearly to understand the limitation of their consular jurisdiction over the crews of American vessels in foreign ports. The general principle of law, as stated by the Supreme Court of the United States, is, that the jurisdiction of a nation within its own territory is necessarily exclusive and absolute. It is susceptible of no limitation not imposed by itself. All exceptions, therefore, to the full and complete power of a nation within

its own territories must be traced to the consent of the nation itself, which possesses an exclusive right to regulate persons and things within its own territory, according to its own sovereign will and public policy.[1] When private individuals of one nation spread themselves through another, as business or caprice may direct, mingling indiscriminately with its inhabitants, or where merchant vessels enter its harbors for the purposes of trade, it would be obviously inconvenient and dangerous to society, and would subject the laws to continual infraction, and the government to degradation, if such individuals or merchants did not owe temporary and local allegiance, and were not amenable to the jurisdiction of the country.

Extent of national jurisdiction.

387. If any offence be committed on board any American vessel within the jurisdiction of any foreign State, by any person belonging to the company of the vessel or any passenger, on any other person belonging to the company of the vessel or any other passenger, it is provided by law, that the offence shall be cognizable and punishable by the proper circuit court of the United States, in the same way and manner, and under the same circumstances, as if the offence had been committed on board of said vessel on the high seas, and without the jurisdiction of the said foreign State.[2]

Jurisdiction of United States federal and State courts.

388. It is undoubtedly true, that the State and Federal courts of the United States could, if they chose to do so, and would, on any proper occasion, exercise jurisdiction over any foreign merchant

[1] Cranch's Reports, vol. VII, p. 136; Story, Conflict of Laws, p. 19; Phillimore, vol. I, p. 233.

[2] Statutes at Large, vol. IV, p. 115; Phillimore, vol. I, p. 356.

vessel and its company, in any of our ports, even in regard to transactions which might take place within our territory between the members of that company; and they would not yield to the claim of a foreign consul to surrender that jurisdiction as a matter of right, though, doubtless, in most cases, questions relating to the discipline of a crew on board a foreign vessel in any of our ports where there was a consular officer of the nation to which such vessel belonged, would be settled by the consul without the interference of the local authorities.

CHAPTER XXIII.

ATTENDANCE OF CONSULAR OFFICERS AS WITNESSES IN COURT.

Evidence of consular officers in judicial proceedings.

389. By the second article of the consular convention between the United States and France, of the 23d February, 1853, it is stipulated that consular officers shall never be compelled to appear as witnesses before the courts. When any declaration for judicial purposes, or deposition, is to be received from them in the administration of justice, they shall be invited in writing to appear in court, and if unable to do so, their testimony shall be requested in writing, or be taken orally at their dwellings.[1] By provisions in some of our treaties with other powers the above privilege may be claimed by them for their consuls resident in the United States.

Duty of consular officers to appear and give testimony on invitation.

390. Though United States consuls in France are not subject to compulsory process for the purpose of being brought into court as witnesses, yet it is their duty, on invitation, to appear and give their testimony unless necessarily prevented. They have no right on account of their official position, or disinclination, or personal inconvenience, to refuse compliance with such invitation. Business engagements will not be regarded as a valid excuse, unless they be of such a character that interruption would necessarily result in a serious injury to our government or citizens.

391. If the testimony of American consular officers is required for the proper administration of

[1] Statutes at Large, vol. X, p. 993.

justice in a foreign country, it ought to be made available, except under extraordinary circumstances, for that purpose, and the government of the United States expects they will be careful to throw no obstacles in the way of obtaining it.

No obstacles to be interposed by consular officers in obtaining testimony.

392. Should an American consular officer to whom the exemption from compulsory process is given by the consular treaty above referred to, or any other treaty, refuse, for what he may deem a good cause, to comply with the invitation to appear in court and give testimony, he is directed forthwith to communicate the fact of his refusal to the Department of State, and to state clearly and fully the reasons for such refusal. A refusal without good cause therefor will be regarded as an act of disrespect towards the government within whose jurisdiction he resides, and as a sufficient reason for his removal..

Duty of a consular officer after a refusal to appear and give testimony.

Consequences of a refusal without good cause.

CHAPTER XXIV.

DUTIES OF CONSULAR OFFICERS IN RESPECT TO THE PASSENGER ACT.

Act of March 3, 1855.

393. It is made the duty of the Secretary of State, by the second paragraph of the 18th section of the act approved 3d of March, 1855, to give notice, in the ports of Europe and elsewhere, of the provisions of the act to regulate the carriage of passengers in steamships and other vessels, approved March 3, 1855.[1]

394. The special attention of United States consular officers is called to this act, and also to the instructions which have been issued by the Treasury Department in reference to it.[2] It will be observed that, whilst this act prescribes spaces of certain clear superficial feet of deck to each passenger, (other than cabin passengers,) it moreover fixes a maximum, by restricting the number of such passengers allowed to be carried in any such vessel in the proportion of one to every two tons of said vessel's tonnage measurement, excluding children under the age of one year in the computation, and computing two children over one and under eight years of age as one passenger. It follows, that though a vessel might afford clear spaces of the dimensions indicated for a greater number of passengers than one to every two tons of her tonnage measurement,

Space to be allowed to each passenger.

Number of passengers restricted.

Computation in regard to children.

[1] Statutes at Large, vol. X, p. 715; Johnson and Reddall's Manual, Passengers and Passenger Ships.

[2] General Regulations of the Treasury Department, No. 67, p. 79.

yet if the number shall exceed that allowed by her tonnage measurement the penalties imposed by the law would attach; or if her tonnage measurement should allow a greater number of passengers than according to the clear spaces prescribed by law she could carry, yet if the number shall exceed that allowed by the clear spaces prescribed by law the penalties imposed by the law would equally attach. In other words, the one rule, as to the number of passengers a vessel is entitled to carry, is a limitation upon the other. The tonnage of each vessel, according to custom-house measurement, must, therefore, be ascertained, as well as the measurement of the spaces allotted to passengers, in order to determine the number of passengers she is entitled to carry.

Penalty; when incurred.

395. In order to determine the number of passengers a vessel is entitled to carry in accordance with the spaces prescribed by this act, the height between decks must be measured, not from the bottom edge of the carlings or deck beams, but from the under surface of the upper deck, to the top floor below; and no space shall be considered available for passengers that has not, when measured in this manner, the height called for by the law, as the case may be; nor shall any space in the vessel of a less width than four feet be measured; provided, however, if the vessel shall, in accordance with the provisions of the first section of this act, carry any portion of her cargo, or any other article or articles, on any of the decks, cabins, or other places appropriated for the use of passengers, in lockers or enclosures prepared for the purpose, the height between decks shall be measured from the

Mode of determining the number of passengers allowed.

bottom edge of the carlings or deck beams to the upper surface of said lockers or enclosed spaces, which shall be deemed and taken to be the deck or platform from which measurement shall be made for all the purposes of this act, and the spaces occupied by said lockers or enclosed spaces shall be deducted from the spaces allowable for the use of passengers.

Example. For example: the spaces in the main and poop decks or platforms, and in the deck houses, if any there be, will be 16 by 6 = 96 feet; lower deck, 18 by 6 = 108 feet; two-deck vessels, 14 by 7½ = 105 feet.

Encumbering of space by merchandise, &c. 396. The encumbering by merchandise or stores, not the personal baggage of the passengers, except in lockers or enclosures prepared for the purpose, of any part of the space occupied by the passengers, will vitiate the whole space, unless the part so encumbered be separated from that so occupied by a substantial bulkhead.

Deck. 397. The deck or platform must be of a permanent nature, flush, and impervious to the water.

Attention called to certain sections of the act. 398. It is deemed sufficient only further to call particular attention to the 1st, 2d, 6th, 10th, 11th, 14th, 15th, 16th and 17th sections of this act, in which certain provisions, different from existing laws, have been enacted, and to state that all the requirements of said sections must be strictly enforced.

Violation of the act to be reported. 399. Consular officers will not omit to report immediately to the Department of State any violation of the provisions of this act by the masters of vessels bound to any port in the United States or any Territory thereof.

400. Consular officers are likewise required, in cases of the intended shipment of paupers, or pardoned criminals, to the United States, to give timely notice of the fact, both to the Department of State and to the collector of customs of the port to which the vessel having them on board may be bound, furnishing the names of the parties, a description of their persons, the name of the vessel, and the date of sailing, in order that proper steps may be taken for the enforcement of such police regulations as may have been adopted by the several States upon the subject.

Shipment of paupers and criminals to be reported.

CHAPTER XXV.

DUTIES OF CONSULS GENERAL AND CONSULS IN RELATION TO THE GRANTING OF PASSPORTS AND CERTIFICATES.

Act of August 18, 1856.

Issue of passports.

401. By the 21st section of the act of August 18, 1856, the Secretary of State is authorized to grant and issue passports, and cause passports to be granted, issued, and verified in foreign countries by such diplomatic or consular officers of the United States, and under such rules as the President shall designate and prescribe, for and on behalf of the United States, and no other person shall grant, issue, or verify any such passport; nor shall any passport be granted or issued to or verified for any other persons than citizens of the United States; nor shall any charge be made for granting, issuing, or verifying any passport except in a foreign country; and in any case the fee allowed therefor shall not exceed the sum of one dollar, nor shall any such charge be made for more than one such verification in any foreign country; and if any person acting or claiming to act in any office or capacity under the United States, or any of the States of the United States, who shall not be lawfully authorized so to do, shall grant, issue, or verify any passport, or other instrument in the nature of a passport, to or for any citizen of the United States, or to or for any person claiming to be or designated as such in such passport or verification; or if any consular officer who shall be authorized to grant, issue, or verify passports, shall knowingly and wilfully grant, issue, or verify any

such passport to or for any person not a citizen of the United States, the person so offending shall be deemed and taken to be guilty of a misdemeanor, and on conviction thereof shall be imprisoned not exceeding one year or fined in a sum not to exceed five hundred dollars, or both, and may be charged, proceeded against, tried, convicted, and dealt with therefor in the district where he may be arrested or in custody. It is likewise made the duty of all persons who shall be authorized, pursuant to the provisions of the act, to grant, issue, or verify passports, to make return of the same to the Secretary of State; and such returns shall specify the names and all other particulars of the persons to whom the same shall be granted, issued, or verified, as embraced in such passport.

Passports; by and to whom issued.

402. From the foregoing provisions of the act it will be seen that passports can only be issued by the Secretary of State, and such diplomatic and consular officers of the United States in foreign countries as he may expressly authorize, and they can be granted to citizens of the United States only.

When a fee is to be paid for the issue of a passport.

403. Passports will be granted by the Secretary of State and by the diplomatic representatives of the United States in foreign countries *free of charge*, but when issued by a consul general or consul, the fee of one dollar, as prescribed in these Instructions, is to be collected in every case. As passports granted by the Secretary of State secure to the bearers facilities from foreign governments not accorded to those issued by diplomatic officers, consuls general, or consuls, it will always be to the interest of travellers to procure their passports before leaving the United States, and this course is earnestly recommended by the Department of State.

When consuls general are prohibited from issuing passports.

404. In any country where there is a diplomatic representative, no consul general or consul is authorized to issue passports, except in the absence of such representative from the place of his legation.

When passports may be issued by a consul general or a consul.

405. Whenever he may be so absent, authority is hereby given to consuls general and consuls only, to issue passports; but in all cases the said consuls general or consuls, as the case may be, will report to the Department of State the name of the persons to whom passports have been issued by them, together with the evidence of their being citizens of the United States, and a copy of the same report will be forwarded to the legation of the United States, if there be any in the country. In case there should be no diplomatic representative accredited to the country in which a consul general or consul may reside, then these officers are authorized to grant passports, having regard to the General Instructions to Consular Officers in reference thereto; they will transmit, in all cases, to the Department of State the information in regard to citizenship required by this section.

Issue of passports and the fee therefor.

406. Whenever a foreign government shall require the *visa* of a passport of any citizen of the United States, it shall be given by the consular officer of the United States at the place where it is demanded, and he shall for each passport so *visaed*, collect and account for the fee prescribed in these Instructions, noting on the passport that this has been done; and no charge shall thereafter be made by any officer of the United States for any *visa* of that passport in the same country.

Nature and description of a passport.

407. Passports are granted upon the ground of international courtesy, and as affording evidence to

the diplomatic and other agents in foreign countries that the bearer thereof is a citizen of the United States, and entitled to full protection as such.[1] A passport, in proper form, must contain a description of the bearer, with his signature; it must also request all whom it may concern to permit the bearer thereof, being a citizen of the United States, safely and freely to pass, and, in case of need, to give him all lawful aid and protection while so doing. It must be signed by the diplomatic representative, consul general, or consul, and sealed with the seal of the legation or consulate. Passports should be numbered, commencing with No. 1, and so continuing consecutively till the end of the incumbent's term of office. For a proper form of a passport, see Form No. 46.

Passports issued to be reported.

408. Consuls general and consuls are instructed to transmit the name and description of every person to whom a passport has been issued by them, to this Department, with the evidence on which it is granted, in accordance with Form No. 47.

Conditions for the issue of a passport to a native citizen.

409. Consuls general and consuls are expressly instructed, that, when an application is made for a passport by a native citizen of the United States, before granting it, the applicant must file in the consulate an affidavit stating that fact, and also his age and place of birth; this must be signed and sworn to by himself and one other citizen of the United States named therein, to whom he is personally known, and to the best of whose knowledge and belief the declaration made by him is true.

[1] Johnson & Reddall's Manual, edition of 1855, p. 69.

Naturalized citizens.

410. If the applicant be a naturalized citizen, a passport can only be granted upon his exhibiting a certificate of naturalization, or a certified copy thereof; an authenticated copy of which must be transmitted by the consul general or consul to the Department of State.

Passports may include the family of the applicant.

411. When the applicant is accompanied by his wife, children, or servants, or by females under his protection, it will be sufficient to state the names and ages of such persons and their relationship to the applicant.

Cautionary injunctions.

412. Consuls general and consuls are instructed to exercise the utmost care and diligence in seeing that no passport is granted without clear evidence that the applicant is entitled to it as an American citizen. They are not to grant passports simply upon *papers* issued by State or corporate authorities or notaries public, or upon certificates of citizenship given by such authorities, as the United States consulates are not furnished with official information either in regard to their appointments, or to their signatures and seals of office.

Penalty for the issue of a passport to an alien.

413. A passport or other paper granted by a consul, certifying that an alien, knowing him or her to be such, is a citizen of the United States,[1] is an offence punishable by a fine not exceeding one thousand dollars, to which the President will always add deprivation of office.

Certificates.

Issue of certificates.

414. Great care must be exercised by consular officers in granting certificates respecting the property of aliens; for a certificate given by a consular

[1] Statutes at Large, vol. II, p. 205.

officer that property belonging to aliens is the property of citizens of the United States, knowing the fact to be otherwise, is an offence by which a high penalty is incurred, the punishment being a fine not exceeding ten thousand dollars and imprisonment not exceeding three years. Consular officers, therefore, in all such cases, will require such evidence as will show clearly that they have good reason to believe the truth of the facts they certify.

Penalty incurred.

315. By the revenue laws of the United States, consular officers are authorized to give certificates of the landing of merchandise, to obtain the benefit of drawback. As great frauds upon the revenue have sometimes been committed by obtaining certificates without a due examination of the articles, consuls are instructed to give no such certificates without personal inspection or full proof. Authority is also given by the same laws to certify invoices of goods shipped for the United States; but the shipper is entitled to include in one invoice all the goods he may ship by the same vessel.

Certificates for the benefit of drawback.

Verification of invoices.

316. On all subjects relating to the revenue, particular instructions will be given from time to time by the Secretary of the Treasury, which will be equally obligatory upon consular officers as if they had proceeded from this Department. The special attention of all consular officers is called to the General Regulations of the Treasury Department, No. 67, which have been transmitted to them by the Department of State, and so far as they relate to their duties, the strict observance of them is enjoined.

Attention to be given to the instructions of the Secretary of the Treasury.

CHAPTER XXVI.

OFFICIAL INTERCOURSE OF UNITED STATES CONSULAR OFFICERS WITH OFFICERS OF THE NAVY.

Regulations respecting official intercourse with navy officers.

417. To promote harmony and concert of action between the commanders of ships of war and consular officers of the United States residing in foreign ports, the following regulations have been established, by direction of the President of the United States, and are promulgated for the government of the officers concerned:

1. Upon entering a foreign port where a consular officer of the United States of a lower rank than a consul general resides, the commander of a United States ship of war will send a boat on shore with an officer on board, who shall visit the consul, and tender to him a passage to the ship;

2. Where a consul general resides, it is the duty of the commander of an American ship of war (commanders of squadrons excepted) to visit the consul general, and offer him a passage to the ship;

3. The commander of a squadron will send a boat on shore, as prescribed in the first regulation, tendering to the consular officer a passage on board to the flag ship of war.

Visit of a consular officer to a United States vessel.

418. According to the first regulation, a consular officer of the United States residing at a foreign port which is visited by a ship of war of the United States, is to receive the first visit from such ship, in the person of an officer belonging to it, deputed and sent

for that purpose by the commander; and this officer is then to tender to the consul a passage to the vessel. In such cases the consular officer will accordingly avail himself of the proposed accommodation whenever occasion may require, both for the purpose of making the first visit to the commanding officer of the ship in question (this being a mark of courtesy due to the commission and rank he holds in the navy of the United States) and to offer any services which his official situation may enable him to render for the convenience of the ship or those belonging to it; and the consular officer will accordingly receive and execute any such commission as may be intrusted to him for these ends by the commanding officer, as far as it may be compatible with his sense of public duty.

Visit of a navy officer to a consul general, and the duty of the latter.

419. According to the second and third, it shall be the duty of the commander of any United States vessel (commanders of squadrons excepted) to visit the consul general, and offer him a passage to the ship of war, or that of the commander of a squadron to send a boat on shore, as prescribed in the first regulation, tendering to the consular officer a passage on board to the flag ship of war. The consul general and consul of the United States, where there are such officers, will, accordingly, reciprocate these attentions on the part of the commanders of the ships of war, or will pay the first honors to the commanding officers of squadrons, as the case may be; and they will of course employ their good offices, as far as it may be useful or proper on their part, to promote the interests and convenience of the service in which such vessels are engaged.

Salutes.

420. Consuls general are entitled to a salute of nine guns, consuls to a salute of seven guns, vice consuls, consular agents, commercial agents, and vice commercial agents, to a salute of five guns; which salutes are only to be fired once during the stay of a man-of-war; or in case of any special emergency, of which the commanding naval officer must be the judge, the salute may be repeated. On the first gun being fired, the boat which conveys the consular officer who is receiving the salute must stop, the oarsmen either lying on their oars or tossing them up. The consular officer will face the vessel firing the salute; and at the end of the salute he will raise his cap in a distinct and unmistakable manner; the boat will then proceed.

Presence of United States vessels to be requested only in great emergencies.

421. Consular officers will refrain from requesting, except through the medium of the Department of State, the presence of United States vessels at the ports in their respective consular districts, unless for the protection of the lives and property of American citizens which might be endangered by delay; in such a case the consular officer will present to the commander of the vessel a statement of the facts, who will act upon his own reponsibility, subject to the general or special orders he may have received from the Navy Department.

CHAPTER XXVII.

DUTIES OF UNITED STATES CONSULAR OFFICERS IN AFRICA.

Morocco.

Treaty with Morocco; stipulations.

422. It is stipulated by the 19th and the three following articles of the treaty[1] concluded between the United States and Morocco, October 1, 1837, that if any of the citizens of the United States, or any persons under their protection, shall have any dispute with each other, the consul shall decide between the parties; and whenever the consul shall require any aid or assistance from the government of Morocco, to enforce his decisions, it shall be immediately rendered to him.

Homicide.

423. If a citizen of the United States should kill or wound a Moor, or, on the contrary, if a Moor shall kill or wound a citizen of the United States, the law of the country shall take place, and equal justice shall be rendered, the consul assisting at the trial; and if any delinquent shall make his escape, the consul shall not be answerable for him in any manner whatever.

Decedents' estates.

424. If an American citizen shall die in Morocco, and no will shall appear, the consul shall take possession of his effects; and if there shall be no consul, the effects shall be deposited in the hands of some person worthy of trust, until the party shall appear who has a right to demand them; but if the heir to the person deceased be present, the property shall be delivered to him without interruption; and

[1] Statutes at Large, vol. VIII, p. 486.

if a will shall appear, the property shall descend agreeably to that will, as soon as the consul shall declare the validity thereof.

Consular residence.

425. The consul of the United States is permitted to reside in any seaport of the dominions of the Emperor of Morocco that he shall think proper; and he shall be respected, and enjoy all the privileges which the consuls of any other nation enjoy; and if any of the citizens of the United States shall contract any debts or engagements, the consul shall not be in any manner answerable for them, unless he shall have given a promise in writing for the payment or fulfilment thereof; without which promise in writing no application to him for any redress shall be made.

Tripoli.

Treaty with Tripoli; stipulations.

426. By the treaty[1] concluded with Tripoli, June 4, 1805, it is stipulated that the consuls and agents of both nations, respectively, shall have liberty to exercise their religion in their own houses; and those of the same religion shall not be impeded in going to the consul's house at the hour of prayer. The consuls shall have liberty and personal security given them to travel within the territories of each other both by land and sea, and shall not be prevented from going on board any vessel that they may think proper to visit. They shall have likewise the liberty to appoint their own dragomans and brokers.

Disputes between contracting parties.

427. In case of any dispute arising between the contracting parties, no appeal shall be made to arms, nor shall war be declared under any pretext whatever; but if the consul residing at the place where the dispute shall happen shall not be able to settle

[1] Statutes at Large, vol. VIII, p. 216.

the same, the government of the country shall state its grievances in writing, and transmit it to the other; and the period of twelve calendar months shall be allowed for answers to be returned; during which time no act of hostility shall be permitted by either party; and in case the grievances are not redressed, and a war should be the event, the consuls and citizens or subjects of both parties, respectively, shall be permitted to embark, with their effects, unmolested, on board of what vessel or vessels they shall think proper.

Disputes between individuals.

428. If any disputes shall arise between citizens of the United States, or any persons under their protection, such disputes shall be settled by the consul of the United States in the same manner as stated above, in Morocco.

Homicide.

429. The same provision is made in the treaty with Tripoli, in respect of homicides, as in the treaty with Morocco.

Decedents' estates.

430. The care of the property of citizens of the United States dying in the regency of Tripoli is to be committed to the care of the consul, unless otherwise disposed of by will; and no hindrance is to be interposed to the execution of any will that may appear.

Tunis.

Treaty with Tunis; stipulations.

431. The treaty[1] of the United States concluded with Tunis March 26, 1799, provides that bills of sale may be furnished by the United States consul to American citizens who may purchase prize vessels in Tunis. Each of the contracting parties is at liberty to establish a consulate in the country of the other;

[1] Statutes at Large, vol. VIII, p. 160.

and the consul shall enjoy, as well for himself as his family and suite, the protection of the government. He is allowed to import, for his own use, all his provisions and furniture, without paying any duty; if he imports merchandise, he is required to pay duty for it.

Debts and obligations.

432. No responsibility is incurred by either country, the consuls, or the citizens thereof, for debts contracted, or obligations entered into, except they or their consul shall have previously become bound in writing.

Administration upon the estates of decedents.

The consul of either country is to administer upon the effects of a decedent, being a citizen or subject of his own country and dying in the other, and the government of the place shall have nothing to do therewith.

Disputes between citizens of the United States and individuals under consular protection.

433. Disputes between citizens of the United States, or between all other persons who may be immediately under the protection of the consul, are to be decided by him; and if he requires the assistance of the government to sanction his decisions, it shall be granted to him.

Homicides.

434. In trials in cases of homicide, the *lex loci* shall prevail, and the consul shall be present thereat.

Trials.

435. If a dispute or lawsuit on commercial or other civil matters shall happen, the trial shall be had in the presence of the consul, or some other confidential person of his choice who shall represent him, and endeavor to accommodate the difference which may have happened between the citizens or subjects of the two nations.

Muscat.

436. The ninth article of the treaty,[1] concluded September 21, 1833, between the United States and

[1] Statutes at Large, vol. VIII, p. 459.

the Sultan of Muscat, provides that the President may appoint consuls to reside in the ports of the Sultan, where the principal commerce shall be carried on; which consuls shall be the exclusive judges of all disputes or suits wherein American citizens shall be engaged with each other. They shall have power to receive the property of any American citizen dying within the kingdom, and to send the same to his heirs, first paying all his debts due to the subjects of the Sultan. The said consuls shall not be arrested, nor shall their property be seized, nor shall any of their household be arrested, but their persons and property and their houses shall be inviolate. Should any consul, however, commit any offence against the laws of the kingdom, complaint shall be made to the President, who shall immediately displace him.

Miscellaneous instructions.

437. The increasing commercial intercourse between the United States and Africa demands attention on the part of the several United States consular officers, and it is especially the duty of these officers wherever stationed, to cultivate and preserve friendly relations and intercourse between the citizens of their own country and those to which they are respectively accredited.

Commercial intercourse to be encouraged.

438. In the great African pashalics, although subject to the sovereignty of the Turkish Empire, the right is secured by treaty, and it should be strictly maintained, to address, whenever occasion requires it, the highest provincial as well as the local authorities of the place where the consul resides. And to

Official intercourse.

Credentials and duties.

enable the consul the better to discharge his duties, he bears with his commission a letter of credence, addressed to the highest authority in the pashalic, requesting him to be received in his official character, and to be duly respected; and also, that full credit may be given to what he shall represent on the part of his government, stating that the consul has been appointed to watch over the interests of the United States, and, by all honorable means, to maintain the harmony existing between the United States and the country to which he is sent. His official duties thus expand of necessity into a large field, because he is called upon to communicate with his own government and with that near which he resides, on matters which would otherwise devolve on a minister.

Information to be transmitted.

439. It is expected that consular officers in Africa will make themselves acquainted with the political state of the country in which their consulates are situated, and with the relations of that country with other countries, and communicate whatever they may learn on these subjects to this Department. Any commercial, statistical, geographical, or other interesting information, will be very acceptable to the government of the United States, and may greatly promote the interests of American citizens, by opening new avenues for trade and commercial intercourse. Consular officers are requested to make such suggestions, from time to time, as may occur to them for the accomplishment of these objects.

Piratical depredations.

440. The depredations which are occasionally committed by barbarians on some parts of the African coast demand unceasing vigilance. Consular officers

will impress upon the authorities of the places where they reside, in the event of such depredations, that the United States will hold them responsible for all injuries to the persons and property of American citizens committed or tolerated within their territorial limits in violation of the established laws of civilized nations.

Non-intervention.

441. Consular officers are reminded that it is the practice of this government to respect the institutions of other countries, and its representatives abroad have on all occasions been instructed to give no countenance to persons who may wilfully violate their existing laws. Adhering strictly to this principle, consular officers will, of course, decline all official interference in cases in which the law of the land is in conflict with the demands of those who may invoke their interposition. Nevertheless, when claims are made against Mohammedans, under any local custom established among *alien residents*, although not in accordance with the Mohammedan laws, consular officers may employ their best exertions to bring the contending parties, by mutual agreement between themselves, to a settlement as favorable as possible for any American citizen who may be therein interested; but such claims must never be urged by imprisonment, nor by any other coercive measures, nor must any official proceedings upon them be demanded from the authorities of the place.

Claims.

CHAPTER XXVIII.

DUTIES OF UNITED STATES CONSULAR OFFICERS IN TURKEY.

Northern conquerors.

442. In the early stages of the progress of the northern conquerors over Europe, they were accustomed to allow to such of the conquered nations as desired it, the privilege of being governed by their own peculiar laws and tried by their own magistrates.

Local jurisdiction.

443. As the several European governments became consolidated, the conquerors and the conquered coalesced into one people, and their separate jurisdictions disappeared; but the more modern idea now prevails, that each government is in general, to exercise exclusive jurisdiction over all persons in its territory, with a few exceptions established by specific treaties, or by the customs of Christian nations. The old usage, however, remains in full force in the East.

444. In Mohammedan and Pagan countries each Christian state asserts for its subjects more or less of exemption from the authority of the local sovereign. Thus, at the present time, throughout Christendom, the general rule prevails, that foreigners are subject in all criminal and in most civil matters to the local jurisdiction; but in all Mohammedan and Pagan states, a different rule prevails.

National character.

445. In the law of nations, as to Europe, the rule is, that men take their national character from the general character of the country in which they re-

side; and this rule applies equally to America. But in Asia and Africa, an immiscible character is kept up, and Europeans, trading under the protection of a factory, take their national character from the establishment under which they live and trade.

446. This rule applies to those parts of the world from obvious reasons of policy, because foreigners are not admitted there, as in Europe and the western part of the world, into the general body and mass of the society of the nation, but they continue strangers and sojourners, not acquiring any national character under the general sovereignty of the country.[1] The subjects or citizens of Christian states, who may happen to be sojourning or even permanently residing in Turkey and its dependencies, are privileged persons, politically as well as commercially. In all cases the ministers and consuls of their country have exercised, not only a protecting political authority, but also, under sundry qualifications and modifications, varying according to treaty or usage, judicial functions and jurisdiction.

Treaty with Turkey; stipulations.

447. Our treaty with Turkey provides that "if litigations and disputes should arise between the subjects of the Sublime Porte and citizens of the United States, the parties shall not be heard, nor shall judgment be pronounced, unless the American dragoman be present. Causes in which the sum may exceed five hundred piastres shall be submitted to the Sublime Porte, to be decided according to the laws of equity and justice. Citizens of the United States of America, quietly pursuing their commerce, and not being charged or convicted of any crime or offence, shall not be molested; and

[1] Kent, vol. I, pp. 78, 79.

even when they may have committed some offence, they shall not be arrested and put in prison by the local authorities, but they shall be tried by their minister or consul, and punished according to their offence, following in this respect the usage observed towards other Franks."[1]

Act of August 11, 1848.

448. By the 22d section of the act approved August 11, 1848, its provisions, so far as they relate to crimes committed by citizens of the United States, are extended to Turkey, under the treaty with the Sublime Porte of May 7, 1830, and are to be executed in the dominion of the Sublime Porte, in conformity with the provisions of the treaty, by the minister of the United States, and the consuls appointed by the United States to reside therein, who are ex-officio vested with the powers contained in the act for the purposes therein expressed, so far as regards the punishment of crime.[2]

Consul; meaning of the term

449. It is further stipulated that the *word* consul shall be understood to mean any person vested by the United States with and exercising the consular authority in any port of Turkey.

Consular protection.

450. By the laws of Turkey and other Eastern nations, the consulates therein may receive under their protection strangers and sojourners whose religion and social manners do not assimilate with the religion and manners of those countries.

451. The individuals who are thus protected become thereby clothed, for the time being, with the nationality of the protecting consulate. Usage, if not positive stipulation, recognises and sanctions the

[1] Statutes at Large, vol. VIII, p. 409.

[2] Statutes at Large, vol. IX, p. 279.

rights acquired by this connection. Consular officers of the United States are, however, instructed that, while it is expected that the same rights and privileges will be accorded to them in regard to protecting persons not citizens of the United States as may be enjoyed by the consuls of other nations who have no special treaty stipulation on the subject, they are to exercise this right with much discretion.

Discretion to be observed in extending consular protection to aliens.

452. If custom in Turkey gives to foreign consular officers the right of protecting even Ottoman subjects, it is presumed that this right is limited to such persons as may be absolutely necessary for the discharge of the consular functions, and must have originated in consequence of the difficulty of obtaining persons not subjects of the Porte sufficiently acquainted with the oriental languages. No person must be employed in the American consulates for the purpose of screening him from prosecutions for offences against the laws of the country, nor any one known to be reasonably objectionable to the Turkish government.

Ottoman subjects and others not to be screened from justice.

453. European consulates in the East are in the constant habit of opening their doors for the reception of inmates, who are received irrespective of the country of their birth or allegiance, and it is not uncommon for them to have a large number of persons thus protected. International law recognises and sanctions the rights acquired by this connection. No passports or certificates of citizenship are to be given to such individuals, but simply a *tezkereh*, or certificate that the person to whom it is given is cared for and received under the protection of the

No passports or certificates of citizenship to be given to aliens under consular

protection; their names to be reported.

government whose agent has granted it,[1] and the names of all persons who are thus furnished with protections, must be reported to the Department of State.

Commercial intercourse.

454. Under the existing treaty between the United States and Turkey, our commerce is placed on the footing of the most favored nations; thus securing to our merchant vessels the privilege of trading to all the points of Turkey in Europe, Asia, and Africa, on the same conditions as those granted to the most favored nations. Thus our vessels may now trade to the ports of Egypt and Asia Minor, to the Turkish Islands of the Archipelago, and to the Ottoman ports of Europe, and on the Asiatic shore of the Black sea. This is at once an immense field for the enterprise of our merchants and seamen. Many facilities are thus offered for the extension of our commerce with the nations of the East; and consular officers may render important services to their countrymen by collecting all the information in their power in regard to the productions and commerce of these countries, and transmitting it to this Department, by which it will be published from time to time for the general advantage of American citizens.

Consular agents

455. Considering the extensive powers conferred upon consuls by the treaty of the United States with Turkey, great care must be exercised in the selection of persons for appointment as vice consuls or consular agents.

[1] For the jurisdiction of consuls in the Levant, China and Muscat, see Moreuil, Manuel des Agents Consulaires, pp. 127-377; also Mensch, Manuel Pratique du Consulat, p. 3; Wheaton's Elements of International Law, p. 122 and note; also Miltitz, tome i, p. 524; Tuson's British Consul's Manual, p. 122 et seq., and chapter XXX of these Instructions, on the judicial authority of the commissioner and minister, and of consuls of the United States in China and Turkey.

456. The act of Congress of 11th August, 1848, provides in terms for the exercise of judicial authority by ministers and consuls in Turkey, only so far as regards the punishment of crime, leaving the question of civil jurisdiction to stand upon treaties or the peculiar public law of the Levant. The important distinction thus made as between China and Turkey may have arisen from some doubt as to the force and effect of the provisions, on this point, contained in the treaty between the United States and the Ottoman Porte. The language of the treaty is inexplicit, and apparently somewhat equivocal.[1] (Ante section 447.) Judicial authority in Turkey.

457. In another article it is stipulated that "American merchants established in the well-defended states of the Sublime Porte for purposes of commerce * * shall not be disturbed in their affairs, nor shall they be treated in any way contrary to established usages." Treaty stipulations.

458. Finally, the treaty further stipulates that the United States may appoint consuls "at the commercial places in the dominions of the Sublime Porte, where it shall be found needful, to superintend the affairs of commerce;" which consuls "shall enjoy suitable distinction, and shall have necessary aid and protection."

459. Now, upon the superficies of these articles, and of all the rest of the treaty, citizens of the United States are entitled to residence in Turkey, and to exemption from molestation there, only in pursuit of "commerce," and consuls are but officers "to superintend the affairs of commerce." It is true, that Americans in Turkey, committing crime, are to

[1] Opinions of Attorneys General, vol. VII, p. 566 et seq.

be tried by their minister or consul, "following in this respect the usage observed towards other Franks;" and the American "dragoman" (not the minister or consul) is to be present at the trial of any litigation or dispute between the subjects of the Porte and citizens of the United States. But how is it in the case of a "dispute" between two citizens of the United States in Turkey, or a citizen of the United States and a subject of Austria, France, or Great Britain? As to these important questions, the treaty is either silent or obscure. What are the "causes in which the sum (demanded) exceeds five hundred piastres," and which are to be "submitted to the Sublime Porte to be decided according to the laws of equity and justice?" Are these causes between citizens of the United States or between citizens of the United States and other Franks, or causes of class described in the preceding sentence, that is, between Americans and subjects of the Porte? All that, in the language of the treaty, is a matter of construction, with much margin for controversy.

Commerce defined.

460. "Commerce" in the treaty may be presumed to mean any subject or object of residence or intercourse whatever; as to all civil affairs to which no subject of Turkey is a party, Americans are wholly exempt from the local jurisdiction; and in civil matters, as well as criminal, Americans in Turkey are entitled to the benefit of "the usage observed towards other Franks."

Construction of the treaty.

461. The "causes" spoken of in the second sentence of the fourth article, are of the same nature, as to parties, as the "litigations and disputes" mentioned in the first sentence, that is, between

citizens of the United States and subjects of the Porte; the meaning of which is, that causes between such parties, under five hundred piastres in amount, are to be decided by the ordinary local magistrates, assisted by the dragoman, and causes above that amount, by the Porte itself, that is, the Sultan or his appropriate minister, with intervention of the minister or consul of the United States. The phrase in the second article engages that citizens of the United States in Turkey shall not be "treated *in any way* contrary to established usages." The "established usages" are the absolute exemption of all Franks, in controversies among themselves, from the local jurisdiction of the Porte.

462. The general doctrine thus in force in the Levant, of the exterritoriality of foreign Christians, has given rise to a complete system of peculiar municipal and legal administration, consisting of—

1. Turkish tribunals for questions between subjects of the Porte and foreign Christians;

2. Consular courts for the business of each nation of foreign Christians;

3. Trial of questions between foreign Christians of different nations in the consular court of the defendant's nation;

4. Mixed tribunals of Turkish magistrates and foreign Christians, at length substituted in part for cases between Turks and foreign Christians;

5. Finally, for causes between foreign Christians, the substitution at length of mixed tribunals in place of the separate courts,—this arrangement introduced at first by the legations of Austria, Great Britain, France, and Russia, and then tacitly acceded to by the legations of other foreign Christians.

463. Notwithstanding the apparent silence of the fourth article of the treaty upon the whole subject of the civil affairs of Americans, and the seeming reference of their crimes alone to "the usage observed towards other Franks," yet the engagement in the second article secures to Americans in Turkey, and consequently to the consuls of the United States, the same rights and privileges which are enjoyed by those of Austria, Great Britain, France, or Russia. This statement derives confirmation from the tenor of all our treaties with the Barbary states. The earliest, that with Algiers, may be taken as a type. It provides, in article xv, as follows:[1]

First treaty with Algiers.

"Any disputes or suits at law, which may take place between the subjects of the Regency and the citizens of the United States of North America, shall be decided by the Dey in person, and no other.

"Any disputes which may arise between citizens of the United States, shall he decided by the consul: *as they are, in such cases, not subject to the laws* of the Regency."[2]

Second treaty with Algiers.

464. The same subject is yet more comprehensively regulated in a second treaty with Algiers, as follows:

"If any of the citizens of the United States, or any persons under their protection, shall have any disputes with each other, the consul shall decide between the parties; and whenever the consul shall require any aid or assistance from the government of Algiers to enforce his decision, it shall be immediately granted to him; and if any dispute shall arise between any citizens of the United States and the citizens or subjects of any other nation having

[1] Statutes at Large, vol. VIII, p. 135. [2] Ibid.

a consul or agent in Algiers, such disputes shall be settled by the consuls or agents of the respective nations; and any disputes or suits at law that may take place between any citizens of the United States and the subjects of the Regency of Algiers, shall be decided by the Dey in person, and no other." [1]

Tripoli and Tunis.

465. Similar provisions in effect, though in different language, occur in the two treaties with Tripoli;[2] and in the two treaties with Tunis.[3]

Morocco and Muscat.

466. Although Morocco does not stand in the same qualified dependence on the Porte with Tripoli and Tunis, and the old Regency of Algiers, yet Americans are placed on the like footing there as in the states of Turkish Barbary.[4] A similar provision exists in the treaty with the Imaum of Muscat.[5]

Rule of construction.

467. All these treaties, assuming and recognising the same doctrine of public law, that is, the exterritoriality of Americans, and the judicial as well as diplomatic authority of American consuls, serve to construe and to explain whatever there is uncertain, obscure, or vague in the treaty with the Ottoman Porte.

[1] Statutes at Large, vol. VIII, p. 227. [2] Ibid., pp. 153, 216.
[3] Ibid., pp. 160, 299. [4] Ibid., pp. 103, 486. [5] Ibid., p. 459.

CHAPTER XXIX.

DUTIES OF UNITED STATES CONSULAR OFFICERS IN CHINA.

Treaty stipulations.

468. Under the treaty of the United States with China, American citizens charged with the commission of criminal offences in China are withdrawn from the jurisdiction of that country, and are subject to be tried and punished only by the consul, or other public functionary of the United States thereto authorized, according to the laws of the United States. In like manner, all litigated questions arising between American citizens in China, involving the rights of persons or of property, are subject to the jurisdiction and regulation of the authorities of their own government; and controversies occurring in that country between American citizens and the subjects of other governments are to be regulated by existing treaties without interference on the part of China.[1]

Act of August 11, 1848.

469. These are very important concessions to American citizens, and, taken in connexion with the act of August 11, 1848,[2] to carry into effect the provisions of the existing treaty with China and the Ottoman Porte, by vesting judicial powers in the commissioner and consuls in China, they impose weighty duties and responsibilities.

Statute provisions.

470. By the provisions of this act, the laws of the United States are extended over the citizens of the United States in China; and where they are deficient,

[1] Statutes at Large, vol. VIII, p. 597. [2] Ibid., vol. IX, p. 276.

recourse is to be had to the common law; and if neither the common law nor statutes of the United States furnish suitable remedies, the commissioner is authorized by decrees and regulations, which have the force of law, to supply the deficiencies: such regulations and decrees to be transmitted to the President to be laid before Congress. The decision of the consular officer, who, in cases of intricacy, or in criminal cases, is to be aided in his judgment by one or more citizens of the United States, is subject, in civil cases beyond a certain amount, to an appeal to the commissioner. The only capital cases are murder, and insurrection or rebellion against the Chinese government; and in all other cases the punishment is fine and imprisonment, with an appeal to the commissioner; and no person can be convicted of a crime punishable with death, unless the consular officer and his associates all concur in opinion, and the commissioner approves of the conviction. The commissioner and the consuls may call on the Chinese authorities to support them in the exercise of the powers confided to them.

471. It is provided by the fifth and sixth sections of the act above mentioned, that, in order to organize and carry into effect the system of jurisprudence demanded by said treaty, the commissioner, with the advice of the several consuls for the five ports named in said treaty, or so many of them as can be conveniently assembled, shall prescribe the forms of all processes which shall be issued by any of said consuls; the mode of executing and the time of returning the same; the manner in which trials shall be conducted, and how the records thereof shall be

kept; the form of oaths for Christian witnesses, and the mode of examining all other witnesses; the costs which shall be allowed to the prevailing party, and the fees which shall be paid for judicial services to defray necessary expenses; the manner in which all officers and agents to execute process, and to carry the act into effect, shall be appointed and compensated; the form of bail bonds, and the security which shall be required of the party who appeals from the decision of a consul; and, generally, without further enumeration, to make all such decrees and regulations from time to time, under the provisions of the act, as the exigency may demand: and all such regulations, decrees, and orders shall be plainly drawn up in writing, and submitted, as above provided, for the advice of the consuls, or as many of them as can be consulted without prejudicial delay or inconvenience, who shall each signify his assent or dissent in writing, with his name subscribed thereto; and after taking such advice, and considering the same, the commissioner may, nevertheless, by causing the decree, order, or regulation to be published with his signature thereto, and the opinions of his advisers inscribed thereon, make it become binding and obligatory until annulled or modified by Congress, and it shall take effect from the publication or any subsequent day thereto named in the act; and all such regulations, orders, and decrees shall, as speedily as may be after publication, be transmitted by the commissioner, with the opinions of his advisers, as drawn up by them severally, to the President, to be laid before Congress for revision.

472. It is expected that the "regulations, orders, and decrees," thus made binding and obligatory until annulled or modified by Congress, will, in all cases, immediately after "publication," be transmitted to the government for the purpose of being "laid before Congress for revision." Publication of decrees, &c.

473. The high power conferred by these and subsequent sections of the act, are to be exercised, after careful deliberation, with the utmost discretion; careful study of the instructions, in the following chapter, on the "judicial authority of the commissioner or minister and of consular officers of the United States in China and Turkey," is specially enjoined upon all officers exercising such functions in those countries. Cautionary injunctions.

474. It is of the utmost importance to the interests of the United States in China, that the stipulations of the treaty should be carefully regarded, and all violations thereof, either by our own citizens or by the Chinese, repressed or prevented; and in all controversies between them, growing out of commercial or social intercourse, that justice be impartially administered. Observance of the treaty.

475. A rigid observance of the faith of treaties is appreciated by all mankind, whether civilized or savage, and consuls cannot be too vigilant, both by their authority and influence, in impressing upon our countrymen in that distant region, the necessity of regulating their conduct towards the natives by those great principles which bind nations together in bonds of mutual peace and harmony. A trifling individual advantage, unfairly obtained in our intercourse with so jealous and suspicious a people as the Sanctity of treaties.

Chinese, may do essential injury, for years to come, to the character of our country, and its great commercial interests.[1]

Vigilance enjoined.

476. In the present agitated state of China, the property of our citizens and their rights are probably in unusual danger; consular officers will therefore be vigilant and active in affording them all the protection within their power.

Local difficulties.

477. The nineteenth article of the treaty stipulates, in regard to citizens of the United States, that if their dwellings or property be threatened or attacked by mobs, incendiaries, or other violent or lawless persons, the local officers, on requisition of the consul, will immediately despatch a military force to disperse the rioters, and will apprehend the guilty individuals, and punish them with the utmost rigor of the law.[2] These stipulations should be strictly observed; and whenever a riot shall be apprehended, a requisition should be made by the consular officer on the "local officers" for "a military force to disperse the rioters." If, after such a requisition by the consular officer, the local officers should refuse or neglect immediately to despatch a military force to disperse the rioters, the Chinese government would be responsible for all the injuries resulting from this neglect or refusal. If the property of American citizens should be destroyed in consequence of a failure on the part of the "local officers" to perform this treaty obligation, the Chinese government would be bound to repair the loss.[3]

[1] Instructions to Commissioner Everett, MS., April 15, 1845.

[2] Statutes at Large, vol. VIII, p. 596.

[3] Instructions to Commissioner Everett, MS., June 28, 1847.

478. In case of the violation of the Chinese laws in regard to imports by any of our citizens, the consular officers, respectively, will notify them that it is stipulated by the thirty-third article of the treaty, that "citizens of the United States who shall attempt to trade clandestinely with such of the ports of China as are not open to foreign commerce, or who shall trade in opium, or any other contraband article of merchandise, shall be subject to be dealt with by the Chinese government, without being entitled to any countenance or protection from that of the United States; and the United States will take measures to prevent their flag from being abused by the subjects of other nations as a cover for the violation of the laws of the Empire." Violation of Chinese laws by American citizens.

479. Consular officers will cause it to be clearly understood, both by Americans in China, and, so far as it is possible, by the Chinese themselves, that the government from which they derive their authority has no disposition to encourage, and will not encourage, any violation of the commercial regulations of China by citizens of the United States. They will state, in the fullest manner, the acknowledgment of the government, that the commercial regulations of the Empire, having become fairly and fully known, ought to be respected by all ships and all persons visiting its ports; and if citizens of the United States, under these circumstances, are found violating well-known laws of trade, their government will not interfere to protect them from the consequences of their own illegal conduct.[1] Observance of Chinese revenue laws.

[1] Mr. Webster's instructions to Mr. Cushing, May 8, 1843.

Commercial restrictions.

480. In the present condition of China, it is believed that the United States consular officers may do much by the exercise of a prudent, though firm and independent, course of conduct, to remove some of the onerous commercial restrictions existing in China, and obtain increased facilities of intercourse, not exclusively for the citizens of their own country, but to open the Chinese Empire generally to the commercial enterprise of all the civilized nations of the world. For the accomplishment of this object, consular officers will do what they can within their proper sphere of action. Nevertheless, all treaty stipulations with China must be respected, and the settled policy of the United States, of non-interference in the contests which arise between the people and their rulers, must be observed.[1]

Consular discretion.

481. The very great distance of China from the seat of government of the United States, the long delay in receiving and transmitting communications between it and the United States consular officers, and the constantly changing aspect of affairs in that distant country, render it necessary to leave much to the discretion and good judgment of those who have charge of the commercial and other interests of the United States there.

Injunctions.

482. Consular officers will, on all proper occasions, cultivate the friendly disposition of the Chinese people, avoiding as far as possible the giving of offence either to their pride or their prejudices. They will assure them that it is both the desire and the interest of the United States that they shall be prosperous,

[1] Mr. Marcy's instructions to Mr. Marshall, June 7, 1853

united, and at peace with foreign nations, and among themselves; that this country has no ambitious designs to accomplish in regard to them, no desire to acquire any of their territory; and that the greater and more prosperous they become, the more mutually beneficial will be the trade between the two countries. Their prosperity will be for the good of the United States, and whatever tends to impair it, a loss.

Diffusion of information.

483. Consular officers may do much towards furnishing the Chinese with correct and accurate knowledge, in respect to the political power and commercial resources of other nations in comparison with their own, and in this manner lead them to entertain for the United States a respectful consideration. They may also induce the Chinese to adopt higher and more just principles in their intercourse with other nations, and thus these officers will advance the commercial prosperity of this country, whose interests in that distant region are in a measure entrusted to their care, as well as secure benefits and blessings to China.

Absence and appointment of a vice consul.

484. In case a consul in China should find it necessary, for urgent reasons, temporarily to leave his post, with the consent of the President, he is authorized to appoint some suitable person to act as vice consul, as provided by the fourth and sixth chapters of these Instructions.

CHAPTER XXX.

JUDICIAL AUTHORITY OF THE COMMISSIONER OR MINISTER AND OF CONSULS OF THE UNITED STATES IN CHINA AND TURKEY.[1]

Act of August 11, 1848.

485. The jurisdiction of the commissioner and consuls of the United States in China, so far as regards the forms and the manner of its exercise, is regulated by the act of August 11, 1848, which purports to have for its object to carry into effect certain provisions, in this relation, contained in the respective treaties between the United States and China, and the United States and the Ottoman Porte.[2]

Mode of interpreting it.

486. This act, consisting of twenty-four sections, is, of course, to be considered as a whole; and anything obscure in one part of it is to be elucidated by reference to other parts.

Its connection with treaties.

487. It is, avowedly, based on the two treaties in question, and especially that with China, and is to be construed in subordination to that, and to the constitution. In substance, it accepts and gives actual form to those stipulations of treaty, which confer on all citizens of the United States the rights of exterritoriality in China and Turkey.

[1] This chapter embraces substantially an opinion of the Attorney General of the United States, Hon. C. Cushing, dated October 8, 1855, which was requested by the Department of State as to certain points in the judicial authority of the commissioner or minister and of consuls of the United States in China and Turkey, to whose special attention it is referred for their study and guidance.

[2] Statutes at Large, vol. IX, p. 276.

488. The legal rationale of the treaty stipulations as to China, with which we are now chiefly concerned, and their relation to the legislative authority of the United States, are explained in the following despatch of the minister who negotiated the treaty.

Extract from Mr. Cushing's despatch in explanation of the treaty.

"I entered China with the formed *general* conviction that the United States ought not to concede to any foreign state, under any circumstances, jurisdiction over the life and liberty of a citizen of the United States, unless that foreign state be of our own family of nations,—in a word, a Christian state.

International law of Christendom.

"The States of Christendom are bound together by treaties, which confer mutual rights and prescribe reciprocal obligations. They acknowledge the authority of certain maxims and usages, received among them by common consent, and called the law of nations; but which, not being fully acknowledged and observed by the Mohammedan or Pagan states, which occupy the greater part of the globe, is, *in fact*, only the international law of Christendom. Above all, the states of Christendom have a common origin, a common religion, a common intellectuality; associated by which common ties, each permits to the subjects of the other, in time of peace, ample means of access to its dominions for the purpose of trade, full right to reside therein, to transmit letters by its mails, to travel in its interior at pleasure, using the highways, canals, stagecoaches, steamboats, and railroads of the country as freely as the native inhabitants. And they hold a regular and systematic intercourse as governments, by means of diplomatic agents of each, residing in the courts of the others, respectively. All these facts impart to the states of Christendom many of the qualities of one confederated republic.

Intercourse with Pagan and Mahommedan nations.

"How different is the condition of things out of the limits of Christendom! From the greater part of Asia and Africa, individual Christians are utterly excluded,

either by the sanguinary barbarism of the inhabitants, or by their phrensied bigotry, or by the narrow-minded policy of their governments. To their courts, the ministers of Christian governments have no means of access except by force, and at the head of fleets and armies. As between them and us, there is no community of ideas, no common law of nations, no interchange of good offices; and it is only during the present generation, that treaties, most of them imposed by force of arms or by terror, have begun to bring down the great Mohammedan and Pagan governments into a state of inchoate peaceful association with Christendom.

"To none of the governments of this character, as it seems to me, was it safe to commit the lives and liberties of citizens of the United States.

Treaties with the Barbary states.

"In our treaties with the Barbary states, with Turkey, and with Muscat, I had the precedent of the assertion, on our part, of more or less of exclusion of the local jurisdiction, in conformity with the usage, as it is expressed in one of them, observed in regard to the subjects of other Christian states.

"Mr. Urquhart thinks these concessions have not been wise on the part of the Mohammedan states. It may be so for them; but it will be time enough for them to obtain jurisdiction over Christian foreigners, when these last can visit Mecca, Damascus, or Fez, as safely and freely as they do Rome and Paris, and when submission to the local jurisdiction becomes reciprocal.

"Owing to the close association of the nations of Christendom, and the right their people mutually enjoy and exercise, of free entry into each other's country, there is reciprocity in the recognition of the local jurisdiction. Not so in the case of the great Moslem or Pagan states of Asia and Africa, whose subjects do not generally frequent Europe and America, either for trade, instruction, or friendship.

"In China, I found that Great Britain had stipulated for the absolute exemption of her subjects from the jurisdiction of the empire; while the Portuguese attained the same object through their own local jurisdiction at Macao. * * *

Treaty with China.

"I deemed it, therefore, my duty, for all the reasons assigned, to assert a similar exemption on behalf of citizens of the United States. This exemption is agreed to in terms by the letter of the treaty of Wang-Hiya. And it was fully admitted by the Chinese, in the correspondence, which occurred contemporaneously with the negotiation of the treaty, on occasion of the death of Sha Aman.

"By that treaty, thus construed, the laws of the Union follow its citizens, and its banner protects them, even within the domain of the Chinese empire.

"The treaties of the United States with the Barbary powers, and with Muscat, confer judicial functions on our consuls in those countries, and the treaty with Turkey places the same authority in the hands of the minister or consul, as the substitute for the local jurisdiction, which, in each case of controversy, would control it if it arose in Europe or America. These treaties are in this respect accordant with general usage, and with what I conceive to be the principles of the law of nations in relation to the non-christian powers.

"In extending these principles to our intercourse with China, seeing that I had obtained the concession of absolute and unqualified exterritoriality, I considered it well to use in the treaty terms of such generality, in describing the substitute-jurisdiction, as, while they hold unimpaired the customary or law of nations jurisdiction, do also leave to Congress the full and complete direction to define, if it please to do so, what officers, with what powers, and in what form of law, shall be the instruments for the protection and regulation of the citizens of the United States.

"And it only remains, in case the treaty shall be ratified, to adopt such legislative provisions as the wisdom of the President and of Congress may desire or approve, to give effect to the concessions which the Chinese government has made in this matter, and which seem to me so important in principle, and so material to the honor and interests of the United States."[1]

Dependence of the act on the treaty.

489. This anticipated dependence of the act on the treaty is plainly expressed by it, in so far as regards the *civil* jurisdiction of the commissioner and consuls, when it says: "Which jurisdiction shall embrace all controversies between citizens of the United States or others provided for by said treaty."[2] And in the text of the act, as well as its title, it purports "to carry into effect" or into "full effect" the provisions of the treaty.

Civil and criminal jurisdiction.

490. The *criminal* jurisdiction conferred by the act is general in terms, without, however, as will be seen hereafter, overstepping the treaty. Whether the civil jurisdiction is *broader* than that of the treaty, is to be decided by its enactments. It is not perceived that there is any provision of the act, in this respect, which goes beyond the treaty. Any provision, to have such effect, must be affirmative and reasonably explicit; because the tribunals, constituted by the act as well as the treaty, are special ones, having limited jurisdiction, namely, that which is conferred by treaty or statute; and nothing appears, in the course of the act, capable of imparting jurisdiction beyond the persons and predicaments provided for by the treaty stipulations.

[1] Mr. Cushing to Mr. Calhoun, Sept. 29, 1844; MS., Department of State.

[2] Statutes at Large, vol. IX, p. 276, sec. 3.

491. In ascertaining the intent of the statute, care must be taken at no time to lose sight of the provisions of the treaty, at least in the questions of jurisdiction.

Officials.

492. The treaty and statute must be examined, to discover who are the persons that are to exercise this jurisdiction, the forms of its exercise, the laws it is to administer, and the persons and the conditions of its application.

"For the superintendence and regulation of the concerns of the citizens of the United States doing business at the said five ports" (of China), says the treaty, "the government of the United States may appoint consuls, or other officers, at the same, who shall be duly recognised as such by the officers of the Chinese government." [1]

493. After which it proceeds:

Adjustment of disputed questions and controversies.

"All questions in regard to rights, whether of property or person, arising between citizens of the United States in China, shall be subject to the jurisdiction, and regulated by *the authorities*, of their own government. And all controversies occurring in China between citizens of the United States and the subjects of any other government, shall be regulated by the treaties existing between the United States and such governments, respectively, without interference on the part of China." [2]

"And if controversies arise between citizens of the United States and subjects of China, which cannot be amicably settled otherwise, the same shall be examined and decided conformably to justice and equity by the public officers of the two nations acting in conjuction." [3]

[1] Statutes at Large, vol. VIII, p. 593. [2] Ibid., p. 597. [3] Ibid., p. 597.

Crimes.

494. Finally, in regard to crimes, it is agreed that—"Citizens of the United States, who may commit any crime in China, shall be subject to be tried and punished only by the consul, or other public functionary of the United States thereto authorized, according to the laws of the United States."[1]

Exterritoriality

495. On attentive consideration of the provisions, it will be seen that they confer on citizens of the United States in China unqualified and absolute exterritoriality in all *criminal* matters; and that the sole jurisdiction of the United States over its citizens in China is plainly perfect in terms, except in the following cases:

Concerted action.

1. Where, in a matter of civil right, it involves controversy between a Chinese and an American, then the authorities of the two governments are to have *concerted* action.

International relations.

2. Where it involves controversy between an American and some other person than Chinese, as English or French, for example, then its adjustment is to be regulated by the international relations of the United States and of Great Britain or France.

When a government is a party.

3. Whether any of the provisions quoted apply to a case of civil right in which some *government* is a party, on the one side, and a citizen of the United States, on the other, is a question to be considered more particularly hereafter.

Treaty with the Porte.

496. In our treaty with the Ottoman Porte, the stipulations of exterritoriality are less explicit. In *terms*, it seems to be imperfect; but, interjecting into each stipulation its true construction, it will be seen that, so far as they go, they accomplish the object, as follows:

[1] Statutes at Large, vol. VIII, p. 596.

"If litigations and disputes arise between the subjects of the Sublime Porte and citizens of the United States, the parties shall not be heard, nor shall judgment be pronounced, unless the American dragoman be present. Causes (between subjects of the Porte and citizens of the United States) in which the sum (in controversy) may exceed five hundred piastres, shall be submitted to the Sublime Porte, to be decided according to the laws of equity and justice. Citizens of the United States of America, quietly pursuing their commerce, (or other affairs in the Turkish empire, including the countries subject to its suzerainty), and not being charged or convicted of any crime or offence, shall not be molested (either by acts of violence, or by any claim or pretence of local jurisdiction); and even when they may have committed some offence, they shall not be arrested or put in prison by the local authorities, but they shall be tried by their minister or consul, and punished according to their offence, following, in this respect, the usage observed towards other Franks, (that is, tried and punished by the authorities and the laws of the United States)." [1]

Minister or consul defined.

497. In order to execute these treaties,—to carry the laws of the United States into Turkey and China,—to have our territorial jurisdiction follow our people and our flag into those empires,—persons clothed with lawful authority are the necessary instruments. In the treaty with Turkey they are spoken of as the "minister or consul" of the United States; in that with China, as "consuls or other officers," "public officers," the "consul or other public functionary," and "the authorities," of the United States. Then comes in the statute which provides for the exercise of judicial power over the citizens of the United States in the cases which it defines, by "the commissioner and consuls of the

[1] Statutes at Large, vol. VIII, p. 409.

United States duly appointed to reside in China,"[1] and by "the minister of the United States and the consuls appointed by the United States to reside" in Turkey:[2] it being provided that the term "commissioner," like that of "minister," is intended for "the person vested with the powers of chief diplomatic functionary of the United States," and the term "consul," for "any person vested by the United States with, and exercising, the consular authority," in Turkey or China.

Mode of exercising judicial powers.

498. It is observable that the statute provides in terms for the exercise of judicial powers by the ministers and consuls in Turkey only "so far as regards the punishment of crime."[3] It leaves all questions of civil jurisdiction to the vagueness of the general analogies of public law as applied to Franks in the Levant. The instructions which follow, therefore, are only in part applicable to Turkey, and will be stated mainly as affecting China.[4]

499. In thus retaining jurisdiction of American citizens in China, and providing persons to exercise it, reliance could not be had upon the law of nations exclusively, nor upon usages, or a customary local code applicable to the emergency, such as exists in the Levant. Accordingly, the statute contains the following important provision:

"That such jurisdiction in criminal and civil matters shall, in all cases, be exercised and enforced in conformity with the laws of the United States, which are hereby, so far as is necessary to execute said treaty, extended over all citizens of the United States in China, (and over all others to the extent that the terms of the treaty justify

[1] Statutes at Large, vol. IX, p. 276. [2] Ibid., p. 279. [3] Ibid., p. 279.
[4] Opinions of Attorneys General, vol. V, p. 67.

or require), so far as such laws are suitable to carry said treaty into effect; but in all cases where such laws are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies, the common law shall be extended in like manner over such citizens and others in China; and if defects still remain to be supplied, and neither the common law nor the statutes of the United States furnish appropriate and suitable remedies, the commissioner shall, by decrees and regulations, which shall have the force of law, supply such defects and deficiencies." [1]

System of law.

500. The system of law is composed, therefore, of—

1. The laws of the United States, comprehending the constitution, treaties, acts of Congress, equity and admiralty law, and the law of nations, public and private, as administered by the Supreme Court, and circuit and districts courts of the United States, and, in certain cases, regulations of the Executive Departments.

2. "The common law." In this respect, the statute furnishes a code of laws for the great mass of civil or municipal duties, rights, and relations of men, such as, within the United States, are of the resort of the courts of the several States.

Reason for the adoption of the common law.

501. Some general code in these respects became necessary, because the law of the United States,— that is, the federal legislation,—does not include these matters, and, of itself, would be of no avail towards determining any of the questions of property, succession, contract, which constitute the staple matter of ordinary life.

Common law of the States.

502. For such of the States as were founded in whole or chief part by colonists from Great Britain

[1] Statutes at Large, vol. IX, p. 276.

and Ireland, or their descendants, the law of England, as it existed in each of those States at the time of their separation from Great Britain, with such modications as that law had undergone by the operation of colonial adjudication, legislation, or usage, became the common law of such independent State.

Modifications of the common law.

503. Meantime, in addition to many changes, differing among themselves, which the common law underwent in each of the colonies before it became a State, that common law has been yet more largely changed by the legislation and judicial construction of each of the States. Hence, it was not enough to enact that the common law should intervene to supply, in China, deficiencies in the law of the United States. For the question would be sure to arise: What common law? The common law of England at the time when the British colonies were transmuted into independent republican States? Or the common law of Massachusetts? Or that of New York, or Pennsylvania, or Virginia? For all these are distinct, and in many important respects diverse, "common law."

504. To dispose of this difficulty, the statute went one step further, and enacted, that—

Decrees and regulations.

3. "Decrees and regulations" may be made from time to time by the commissioner, which shall have the force of law, and supply any defects or deficiencies in the common law and the laws of the United States. This power of supplementary decree or regulation serves to provide for many cases of criminality, which neither federal statutes nor the common law would cover.

Forms and execution of process.

505. In addition to which, it is enacted that the commissioner, with advice of the several consuls,

shall prescribe the forms of processes to be issued, the mode of executing the same, the form of oaths, the costs and fees to be allowed and paid, and, generally, to make all such decrees, regulations, and orders, under the act, as the exigency may demand, which shall be "binding and obligatory until annulled or modified by Congress." [1]

Decrees, &c., to be laid before Congress.

506. In certain respects, therefore, the commissioner *legislates* for citizens of United States in China; it being required, meanwhile, that such "regulations, orders, and decrees," as he may make in the premises, shall be transmitted "to the President, to be laid before Congress for its revision." [2]

Administration of law.

507. The statute then proceeds to describe in detail the manner in which the commissioner and the consuls are to administer law in China. First, it is enacted that said "public functionaries" are empowered "to arraign and try," in a certain manner, all citizens of the United States "charged with offences against law" which shall be committed in China, and, upon conviction, to sentence such offenders and to issue, "each of them," such processes as are necessary to carry this authority into execution; and, secondly, that in regard to civil rights, whether of person or property, said functionaries are "invested with all the judicial authority necessary to execute the provisions of the said treaty." [3]

Criminal jurisdiction.

481. In regard to criminal matters, each consul, within the limits of his consular circumscription, is empowered, upon personal knowledge, belief, complaint, or information in writing, to cause the arrest of any citizen of the United States charged with the commission of crime in China, to try the offender,

[1] Statutes at Large, vol. IX, p. 276. [2] Ibid., p. 277. [3] Ibid., p. 276.

and to punish, by fine or imprisonment, under the following conditions:

Fines and imprisonment.

509. In all cases where the fine does not exceed one hundred dollars, or the imprisonment sixty days, the consul may, if he see fit, hear and decide alone, and by his own mere authority;[1]

510. In all cases where the fine is more than one hundred dollars, but not more than five hundred, or the imprisonment more than sixty days, but not more than ninety, the consul may hear and decide alone, but subject to an appeal to the commissioner.[2]

Appointment and duties of assessors.

511. In all the foregoing cases, if the consul see fit, and in all cases of higher punishment, of necessity, he will summon one or more citizens of the United States, not exceeding four, to sit with him in the trial. Each of such assessors shall enter and sign of record his opinion in the case, which, however, shall be decided still by the consul. If he and his assessors concur in opinion, the decision is final; but if they differ, the case, with the record and all the evidence, shall be referred to the commissioner, who may either determine it, or, if he choose, remit the case with instructions to the consul for further proceedings.[3]

Capital cases.

512. In capital cases, which, as enumerated by the act, are "murder, insurrection, or rebellion against the Chinese government with intent to subvert the same," the provision is, that the consul must always proceed with four assessors; he and they must all concur in opinion to produce conviction, and the conviction is invalid unless approved by the commissioner; who, if he approve it, is either to issue a warrant of execution, or postpone the same, or, in

[1] Statutes at Large, vol. IX, p. 277. [2] Ibid., p. 277. [3] Ibid., p. 277.

his discretion, submit the case to the President of the United States for pardon.[1]

513. In regard to civil matters, the provision is, that, in "all civil cases under said treaty," the consuls have jurisdiction, each within his consular circumscription, to try of himself, and decide finally, any controversy where the damage demanded does not exceed five hundred dollars. If it exceed five hundred dollars, then of necessity, and in other cases if the consul see fit, he is to summon to his aid not less than two, nor more than three, citizens of the United States as assessors, who shall with him hear the case. If the associates concur in opinion with the consul, his decision is final; but if they differ with him, their opinions are to be noted on the record, and either party may appeal from his decision to the commissioner.[2] Civil cases.

514. The commissioner is fully authorized to hear and decide all cases which lawfully reach him under the provisions of the act, and "to decide finally any case upon the evidence which comes up with it, or to hear the parties further, if he thinks justice will be promoted thereby; and he is empowered to prescribe rules upon which new trials may be granted, either by the consuls or by himself, if asked for upon justifiable grounds."[3] Cases of appeal to the commissioner.

515. Although it is nowhere said by the statute, in so many words, that the judicial authority of the commissioner in the trial of the above described cases, civil or criminal, is appellate only, yet such appears to be its true legal intendment. No original jurisdiction in these two classes of cases is given to him in express terms by the statute. It is all Appellate jurisdiction.

[1] Statutes at Large, vol. IX, p. 278. [2] Ibid., p. 279. [3] Ibid., p. 278.

conferred in express terms on the consuls. In capital cases, it is plainly enacted that the consul and his assistants convict, and the "commissioner approves the conviction," the previous conviction being essential, and approval or disapproval being in the nature of things a separate act. In all other criminal cases, and in all the civil cases mentioned, the matter comes to the commissioner by appeal, or by certificate of difference of opinion between the consul and his assessors; and the commissioner decides upon the evidence "which comes up," that is, from the consul, or upon further hearing of the parties, as he shall determine. All these are the incidents and the *indicia* of appellate, as distinguished from original, jurisdiction. Moreover, it seems fitting, and in the analogy of other judicial proceedings, that, in ordinary matters, an appellate authority should exist: which would not be the case here, if the commissioner had, in all things, original jurisdiction, concurrent with that of the consuls; and this anomaly would be the greater in the matter, in consideration that the statute gives no assessors to the commissioner.

Authority of the commissioner.

Original and appellate jurisdiction.

Theory of the statute.

516. It is doubtless the theory of the statute, and a good one, to give to the commissioner, in ordinary judicial matters, at common law, only a regulative, appellate, and superintending authority, devolving the original jurisdiction in such cases upon the resident consuls; that condition of things being altogether in harmony with their diplomatic relation to one another and to the government.[1] No apparent

[1] Mr. Marshall to Mr. Marcy, Dec. 8, 1853, Ex. Doc. 33d Cong., 1st ses., no. 123, p. 384.

inconvenience attaches to this conclusion, except in the contingency of the temporary vacancy of a consulate. In such case, the commissioner has authority to appoint an acting consul.[1]

Cases other than civil and criminal.

517. But the criminal and civil cases, which have thus far been the subject of consideration, do by no means cover the field of judicial authority at common law, still less that of such authority under the laws of the United States, still less of that which may be comprehended by regulations adopted by the commissioner, or by the commissioner and the consuls, and having "the force of law," to supply any defects or deficiencies in the common law and the laws of the United States. It is manifest that the terms of description, contained in the statute, embrace all possible jurisprudence, which does or may exist, compatibly with the organic principles of constitutional law, which govern, and at the same time guard the rights and the duties of citizens of the United States. Leaving out of consideration all criminal matters, that is, treating them as fully disposed of, it becomes material to inquire how matters, not criminal, and not included in the appealable civil cases, are to be dealt with as between the commissioner and the consuls.

Statute provisions.

518. The statute provision as to the trial of civil "cases" is, that "the consuls aforesaid, and each of them at the port for which he is appointed, shall have jurisdiction, as is herein provided, in all civil cases arising under said treaty, wherein *the damage demanded* does not exceed five hundred dollars," in which cases the consular decision may be final;

[1] Mr. Marshall to Mr. Marcy, Dec. 8, 1853, Ex. Doc. 33d Cong., 1st sess., no. 123, p. 372.

"but if in his judgment any case involves legal perplexities, and assistance will be useful, or if *the damage demanded* exceeds five hundred dollars," then he must have assessors, and his decision is subject, in case of difference of opinion, to an appeal to the commissioner.[1]

Miscellaneous processes and cases.

519. Now, there are processes which do not involve any question of "damages" whatever, but which are nevertheless of primary importance and utility; such as the writ of *habeas corpus*.

520. Other cases of controversy at law exist, which concern property, but in which no question of mere damage is involved, unless incidentally, such as many suits *in rem*, and many others *de re*.

521. There is another class of cases of property, in which no damages are demanded, but equitable relief only, such as most matters in chancery.

522. There is another class of processes, which have for their object to enforce or to protect rights in cases already *sub judice* otherwise; such as writs of mandamus, supersedeas, and prohibition.

523. Finally, there is a vast body of justiciable rights, to which the phrase of "damages demanded" can by no possibility apply, being questions of personal right, of the domestic relations, of inheritance, or of testamentary disposition. This includes cases of copartnership, or other joint interest, in real or personal estate, of insolvency, of divorce, of alimony, of wills, and of intestate successions.

Distribution of duties and limitation of general powers.

524. As to the distribution of all these matters between the commissioner and the consuls, the statute is absolutely silent; and that distribution is to

[1] Statutes at Latge, vol. IX, p. 278.

be made by regulation, in subordination always to other specific rules of law. Therefore it is, that, in several provisions of the statute, jurisdiction is conferred in general terms on both the commissioner and the consuls;[1] and that a general power to issue all needful processes, as well as to make regulation of all processes, is conferred on the commissioner.[2] These general powers, as has been seen, are defined and limited as to *certain* "civil cases" in other parts of the statute, which limitation depends on the nature of the case, as indicated by the question of "damages."

Local jurisdiction, and conditions thereof.

525. The same general powers are also limited more or less in the sense of locality; for it is enacted that "the said functionaries," that is, the commissioner and the consuls, being "(in)vested with all the judicial authority necessary to execute the provisions" of the treaty, "shall entertain jurisdiction in matters of *contract* at the port where or nearest to which the contract was made, or at which or nearest to which it was to be executed; and in all other matters, at the port where or nearest to which the cause of controversy arose, or at the port where or nearest to which the damage complained of was sustained,—any such port above named being always one of the five mentioned in the treaty."[3] These conditions of locality are to be applied, so far as may be in their nature applicable, to all cases. To many cases of contract and of damage sustained, the condition of one of the five ports is inapplicable by its very nature. Thus, it may be the case of a con-

[1] Statutes at Large, vol. IX, p. 276. [2] Ibid., pp. 276, 278, sections 5 and 13.
[3] Statutes at Large, vol. IX, p. 276.

tract made and to be executed, or of damage sustained, in Europe or in America, the parties being *now* in China.

526. And the condition does not apply in terms to any thing but matters of "contract" or of "damage sustained." Nor does the other form of the condition,—"the port where or nearest to which the cause of controversy arose,"—satisfy all the *desiderata* of the subject. There may be no "controversy" or "cause of controversy" in the matter, though it requires judicial determination, as the probate of a will, which is at once the source and the authentication of title. And in many matters of "controversy," it may be difficult, if not impossible, to show where the "*cause* of controversy" arose. But the statute does not undertake or profess to provide specially for all questions, leaving many to the regulations of the commissioner. Where the question of place of judgment is determined by the statute, of course that controls the commissioner as well as the consuls. In all other cases, the rules and analogies of law on this subject of jurisdiction, having reference to the *situs* of the thing, or the residence or commorancy of parties, afford a sufficient guide to the regulative discretion of the commissioner.

Place of jurisdiction and persons exercising it.

527. Whatever is determined as to the *person* who shall exercise jurisdiction, must of course be conciliated with what shall be determined as to the *place* of jurisdiction. Independently of this, the commissioner and the consuls should make provision, in the manner indicated by the statute, that is, by separate or by joint regulations,[1] concerning all

[1] Statutes at Large, vol. IX, p. 276.

those things, the jurisdiction of which it leaves indeterminate, and, therefore, subject to regulation.

Cases of original jurisdiction.

528. Matters of insolvency, intestacy, probate of will, divorce, division, or regulation of copartnership or other common interests, habeas corpus, specific performance, trust, discovery, seamen's wages, charter-party, bottomry, and other matters of equity, admiralty, or ecclesiastical law, are, for the most part, of local nature, and requiring prompt interlocutory action of judicial authority; and, therefore, seem to be fit subjects for the original jurisdiction of the consuls, with proper regulations for appeal to the commissioner.

Processes appropriate to the jurisdiction of the commissioner.

529. On the other hand, some processes, like mandamus, prohibition, supersedeas, are of so high a nature, that, like review, they seem appropriate to the jurisdiction of the commissioner. The same observation may, perhaps, apply to some processes in equity.

Adherence to the spirit of the laws.

530. Even as to all these matters, which the statute leaves undetermined, the safer course will be to adhere, so far as possible, to the spirit of the law, which makes the commissioner the appellate supervisor of the judicial acts of the consuls.

Appointment of vice consuls.

531. Inquiry has arisen as to whether a vice consul has power to act judicially in China. It has been supposed that this is a question of the delegation of judicial power by a consular judge. It rather seems to be the question of how a vice consul may be lawfully appointed.

Official titles defined.

532. The statute expressly says that "the word *commissioner*, when used in this act, shall be understood to mean the person (in)vested with and ex-

ercising the principal diplomatic functions in China, and the word *minister* as meaning the person (in) vested with the powers of chief diplomatic functionary of the United States in Turkey. The word *consul* shall be understood to mean any person (in)vested by the United States with and exercising the consular authority in any of the five ports of China named in the treaty, or any port in Turkey."[1] The act then proceeds to say that "all such officers shall be responsible to the United States and to the laws thereof, not as diplomatic functionaries and commercial functionaries, but as judicial officers, *when they perform judicial duties.*"[2]

Judicial powers of certain officers.

533. Now, it has never been doubted that the secretary of legation in China, or any other acting chargé d'affaires, could officiate as judge in virtue of treaty and statute. And as to consuls, the statute has no possible significancy, unless it be that vice consuls may so act, when *duly appointed* by the United States. In truth, the statute, with great propriety, employs the word *consul* as the *nomen generalissimum* for any person lawfully invested with consular authority If, therefore, the vice consul have this power, it will not be authority delegated in the sense of the objection, that is, the case of a judicial consul delegating his judicial authority; but, on the contrary, it is the case of power conferred by the statute.

Vice consul; by whom appointed.

534. Moreover, the objection assumes that the vice consul is appointed by the consul. That is an error. The vice consul is in law appointed by the Secretary of State or the President, just as inspectors of customs are *in law* appointed by the

[1] Statutes at Large, vol. IX, p. 279. [2] Ibid., p. 280.

Secretary of the Treasury (or the President.) To be sure, the consul in practice frequently nominates a vice consul to the Secretary of State, as the collector of customs nominates an inspector to the Secretary of Treasury.[1] Whether nominated in the first instance by the commissioner or by the consul, the vice consul, when approved by the Secretary of State, is to be deemed a "person (in)vested by the United States with and exercising the consular authority."

Doctrine of exterritoriality in certain cases.

535. Suggestion is made of some other matters of doubt in the judicial power of the commissioner and the consuls, which makes it necessary to go back to the treaty, and compare certain of its provisions with those of the statute. These doubtful matters are the three cases specified hereafter, in which question might arise whether the exterritoriality of Americans in China is perfect. It is, in truth, however, in each of those cases, a question, not whether they enjoy exterritoriality there so far as that is a privilege or a right, but whether it also attaches to them as an obligation. The laws of their own country accompany them to China, in so far as regards any criminal act whatsoever which they may commit, or be charged with committing therein. The same laws accompany them, in so far as regards any rights they may possess relatively to any other Americans; and so also in regard to any obligations to which they may be subject relatively to any other Americans. But it may be asked, how is it in China with regard to the civil rights and duties of Americans relatively to persons who are not Americans? As among the nations of Christendom, on their

[1] Opinions of Attorneys General, vol. V, pp. 162–165; United States v. Bachelder, ii Gallison, p. 15; United States v. Wood, ibid., p. 361.

own soil, we know that alien friends may sue and be sued in the courts of any country. An American in France may recover his debt of a Frenchman; a Spaniard in the United States may recover his debt of an American. Is the same thing true, as between persons of either of those nations in China? Is it true there, as between a Chinese and an American? To begin with the latter case: The treaty stipulates that "if controversies arise (in China) between citizens of the United States and subjects of China, which cannot be amicably settled otherwise, the same shall be examined and decided, conformably to justice and equity, by the public officers of the two nations acting in conjunction."[1] The controversy shall be settled, that the treaty engages: it shall be settled conformably to justice and equity, and it shall be settled by some conjoint action of the proper officers of the respective nations. But how? The answer is obvious. But before proceeding to give it, however, it may be well to anticipate objection to what might, at first, appear to be an anomaly in jurisprudence, namely, the administration of law among distinct nationalities in the same place or territory, as applied to the state of things in China.

Distinct codes of law in coexisting nationalities.

536. In the middle age, the fact was common, as between the coexisting nationalities, to give to distinct codes of law a personal application, according to nations, instead of a merely territorial force.[2]

Administration of law in British India.

537. At the present time, we have precisely the same fact before us in British India. Europeans, when they first visited India, found a conqueror and a conquered race living together, with the law of

[1] Statutes at Large, vol. VIII, p. 597. [2] Cathcart's Savigny, vol. I, ch. 3.

each administered by nationalities.[1] Each successive European conqueror followed more or less the same rule.[2] The doctrine applies not only to civil rights and remedies, but also, in many respects, to crimes.[3] And the system is now sanctioned by the statutes of the imperial government, which enact that a case of controversy between Mohammedans is to be governed by their laws and usages, and a case of controversy between Gentoos by theirs, and where it is controversy between a Mohammedan and a Gentoo, the law of the defendant's nation is to be applied to the case.[4] The acts of Parliament speak of *Gentoos* only in addition to Mohammedans. This word is not a name of nationality, but is English corruption of the Portuguese *gentio* (gentile.) Hence, the practical coustruction of the expression, in the Anglo-Indian courts, is to consider "Gentoo" as comprehending all nationalities in Hindostan except Christians and Moors; and the national law of each is applied with impartiality alike to Hindus, Sikhs, Parsis, and Jews.[5]

Rule of public law in the colonies.

538. In the British colonies proper, as distinguished from the so-called possessions of the East India Company, the rule of public law is to maintain the municipal institutions of the conquered until they be changed by the conqueror.[6]

[1] Jones's Ins. Hind. Law, art. 203. [2] Bowyer's Pub. Law, p. 168.

[3] Morley, Ind. Cases, int., p. 169.

[4] Act of Parliament of 21 George III, c. 70; and of 37 George III, c. 142.

[5] The Kojahs' and Memons' case, Perry's Oriental Cases, pp. 110, 124.

[6] Burge's Com., vol. I, p. 31; Clark, Colonial Law, p. 4. See Vattel, Droit des Gens., l. III, ch. 12, s. 201; Calvin's case, vii Co. R., p. 176; Rex v. Vaughan, vii Bur., p. 2600; Blanchard v. Galdy, ii Salk, p. 411; Brief in U. S. v. Ritchie, p. 5.

Territorial application of law.

539. In the United States the doctrine is the same.[1] But in the British colonies proper, as well as in the States and organized Territories of the United States, the law is *territorial* in its application and force, not personal,—that is, it applies to all persons, of whatever nation, within the ceded or conquered territory.

Illustrations.

540. It will suffice to elucidate this by examples drawn from our own public law. The several treaties of cession, by which foreign territory, with its inhabitants, has been transferred to the United States, are those of Louisiana, of the two Floridas, and of New Mexico and California. The treaty of the United States with France, for the acquisition of Louisiana, stipulates that,

"ART. III. The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the federal constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and, in the meantime, they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess." [2]

541. Stipulations to the same effect appear in the treaty with Spain, which transferred to the United States the Floridas,[3] and that with the Mexican republic, which recognised our conquest of New Mexico and California.[4]

Rule of public law in United States.

542. In each of these instances, it has been adjudged, as the rule of our public law, and provided by statute, that the laws and usages of the ceded

[1] Strother v. Lucas, xiii Peters, p. 436; Mitchell v. The United States, ix Peters, p, 794.

[2] Statutes at Large, vol, VIII, p. 202. [3] Ibid., p. 376. [4] Ibid., vol. IX, p. 929.

country, as they existed at the time of cession, continued to be the law, not only of the previous inhabitants, but of *all others* who should come to reside in it. No distinction of law was maintained in Louisiana, Florida, or California, between the original French or Spanish inhabitants and the immigrant Anglo-Americans. The *civil* law continued to be the law of the country until it was modified by the legislative act of the *people* of the *Territory*,—that is, the new inchoate state of the American confederation,—that is, its free inhabitants, of whichever nation, acting as a political society. In what is now the State of Louisiana, for instance, the Roman, Spanish, and French laws, modified by statutes, continued to be the system of the State.[1] In the Territory, now State, of Missouri, when the Anglo-Americans had come to predominate in numbers, the common law was substituted for the civil, as the fundamental body of jurisprudence.[2] The same thing was done by the State of California.[3] Thus, in each organized Territory or State of the Union, there is but *one municipal code*, so far as regards all the inhabitants of the Territory or State.

Law in unorganized territories.

543. Nevertheless, we have, in territory of the United States unorganized, the example of law administered by nationalities in the case of the subject Indians, more especially the Choctaws, Chickasaws, and Cherokees.[4]

544. Nay, we have a striking example of the same thing, in substantial effect, in the administration of law as applied to the citizens of the United States.

[1] Louis. Code, art. xxxvi, p. 21.

[2] Acts of 1816 and 1825. See Brief, Ruggles v. Comtesse de Tournon, p. 38.

[3] Act of 1850. [4] Opinions of Attorneys General, vol. VII, p. 75.

Municipal law.

545. Every such citizen, save in the District of Columbia, is a citizen of some State, or of a Territory, hereafter to become a citizen. But, in respect of all matters of municipal resort, the several States are in the relation to one another of foreign governments. That is to say, their citizens constitute in many respects distinct and independent nationalties.

State courts.

546. In Pennsylvania, for instance, a citizen of Virginia sues, or, if there, may be sued, either in relation to a citizen of Pennsylvania, or even to another quasi-foreigner, such as a citizen of Massachusetts: all, in Pennsylvania, being thus subject to the laws and the tribunals of Pennsylvania. But if the subject-matter be one of federal law, that, and not the law of the State, is to be applied to the case.

Federal courts.

547. Moreover, each citizen of a State has open to him the federal courts in a controversy between himself and a citizen of another State, either by the transfer of his case or by original suit in the courts of the United States. But, in that event, he must go into the federal courts for the State of the *defendant*, and, unless it be a question of federal rights, he must accept as the rule of decision the municipal law of that State.

Application of Doctrines of public law to citizens of United States in China.

548. These doctrines of public law may be applied to citizens of the United States in their relations to persons of other nations in China.

549. First, as to a demand brought by a Chinese against an American: The statute provides that the consular court shall have jurisdiction of "all civil cases arising under said treaty." The controversy supposed is a civil case arising under the treaty. When it arises, "the proper officers of the two

nations" will agree that the Chinese shall go into the consular court as plaintiff, and that court will take jurisdiction of the defendant as an American. Or they may enter into a general agreement, and the commissioner may provide, by a standing regulation under the statute, that the consular court shall hear and determine all private claims which Chinese may prefer against Americans.

Jurisdiction consular courts to "others" than American citizens.

550. Confirmatory of this conclusion, as also of what is hereafter to be said of the case of controversy between Americans and foreigners in China, there is in the statute a very significant expression, which assumes that the consular courts are to administer justice in some cases not confined to citizens of the United States. It extends the law, which it prescribes, to citizens of the United States, and to "*all others*, to the extent that the terms of the treaty justify or require." Among those "others" are subjects of China and of any government, who, by voluntarily making themselves parties complainant or demandant before the consular court, appeal, *pro tanto*, to the laws of the United States.

551. Secondly, as to a demand by an American against a Chinese: The former must, of necessity, be content with such judicial or executive action of the Chinese government in the premises as appertains to their institutions, and as, by special application in each case, or by general application, may be required on the part of the public officers of the United States.

Jurisdiction of consular courts in controversies between Ameri-

552. As to the other case, namely, controversies occurring in China between citizens of the United States and subjects of any other (Christian) govern-

can citizens and subjects of foreign states.

ment, the treaty provides that the same "shall be regulated by the treaties existing between the United States and such governments, respectively, without interference on the part of China."

553. Now we have no *special* treaty with any of those governments on this point; nor is any needed, or necessarily required or intended by the stipulation under consideration. With all, we have treaties of amity, or of ordinary commercial and social intercourse; and that suffices to meet the exigency.

554. By the tenor of those treaties, as they are construed by the law and usage of nations, an Englishman has the right to sue a resident American, or an American a resident Englishman, as alien friend, in all places wherever, respectively, the jurisdiction of the other country exists locally, and is complete as to subject-matter, persons, and remedial forms.[1]

555. The jurisdiction of the United States is complete as to their citizens in China; and the jurisdiction of Great Britain is complete as to her subjects in China. That the jurisdiction, in each case, is exterritorial, that in China it is excepted from the local territoriality, and that it is outside of the territoriality of either Great Britain or the United States, are facts wholly immaterial to the question. It is a question free of all doubt on principles of international right, and subject only to the single inquiry, whether the given country, each proceeding in established legal forms, by whatsoever authority such forms be established, has conferred on its courts of justice in China jurisdiction *ad hoc*, or whether that remains to be done.

[1] Fœlix, Dr. Intern. privé, tit. XI, ch. 2

556. Here, again, the statute is explicit and ample. It confers on the consular courts jurisdiction of "all civil cases arising under said treaty." A demand of an Englishman against an American is a civil case arising under the treaty.

557. Therefore, a suit may be brought by the Englishman against the American in the consular court of the United States; as, undoubtedly, in the consular court of Great Britain, it may, consistently with public law, be brought by an American against an Englishman.

558. If the Englishman were within the territorial jurisdiction of the United States, he might sue, but would also be subject to suit, in the local courts, as the American might and would be in England. Nay, a suit would lie in the courts of Great Britain or the United States, between residents, both being aliens in the country.[1]

559. In China, the relative condition of all these persons differs in this, that the local courts of each government, being exterritorial ones, have no territorial jurisdiction, but only a jurisdiction as respects persons, namely, its own citizens or subjects. Of course, neither government can take compulsory jurisdiction there of a subject or citizen of any other; but each may act compulsory upon its own, at the suit of that of another.

560. Perhaps neither government is under perfect obligation to do this; but it may do so in obedience to national comity; it can rightfully do so if it will; and its obligation to do so will be perfect, provided the exercise of the right be reciprocated by the other government.

[1] Fœlix, ubi supra.

can citizens and subjects of foreign states.

ment, the treaty provides t[illegible] difficult, question regulated by the treaties [illegible]ely, whether a foreign States and such gov[illegible]izen of the United States interference on the [illegible] the consul's court in China.

553. Now we [illegible] the most general form, for so, those governm[illegible] be considered, although it has or necessaril[illegible] a special question of an assumed tion under [illegible] of the government of China to sue of amity. [illegible] imports or exports due, or claimed to course [illegible] citizens of the United States.

55[illegible] within the territorial limits of the cor[illegible] States, beyond all peradventure, the Great li[illegible] may, *for good and lawful cause*, bring suit in some proper court against a citizen of the United States.

563. In England, it has been held from the earliest times that a foreign prince or government may appear and prosecute suit before the courts of the realm, either at law or in equity.[1] The King of Spain has been several times a suitor in the courts of England.[2] The Queen of Portugal has appeared occasionally.[3] The King of Hanover has also been a party both plaintiff and defendant.[4]

564. In the Vice Chancellor's court, in England, it has been adjudged, it is true, that the Republic of

[1] Calvin's case, vii Co. R., p. 30, citing xi Edw. III.

[2] Roi d'Espaigne v. Pountes, Rolle's Abr. tit. Court d'Adm., E. 5; Spanish Ambassador v. Pountes, i Rolle's R., p. 133; King of Spain v. Hallett, i Clk. and F., p. 333, and vii Bligh, 559; King of Spain v. Tacon, iv Russ. 225; King of Spain v. Machado, ibid. p. 560; King of Spain v. Mendizabel, cited in Col. Gov. v. Rothschild, i Sim., p. 101. See also Hallet and King of Spain ii Bligh, N. S. p. 31.

[3] Queen of Portugal v. Glyn, vii Clk. and F., p. 466. See also Glyn v. Queen of Portugal, i Younge & C., p. 644.

[4] King of Hanover v. Wheatly, iv Bev., p. 78; Duke of Brunswick v. King of Hanover, vi Bev., p. 1.

[redacted]ld not be heard as plaintiff in equity.[1]
[redacted]n has been overruled in the United

[redacted]ylvania, we have had the case of
[redacted]rance v. Morris.[3] The King of Spain
[redacted]ed in the circuit court of the United
The King of Prussia has been plaintiff in
[redacted]tate of Missouri.

566. One of the cases above cited is particularly interesting, because it is a suit by the King of Spain against a citizen of the United States for duties on imports into the port of Vera Cruz. This appears by the charge of the court on the trial of the case. In that charge, it is not intimated that the King of Spain might not well sue in our courts for duties: and the answer of the defendant consisted of other matters; such as, that the duties were not due from this defendant, but from another party; and that they had in fact been paid or adjusted in account by that other party.[5]

Suits by the Chinese government.

567. While, on its face, this case goes to show that a foreign government may sue in the United States for duties, yet such conclusion must be taken with the reservation that it was a case at nisi prius. It is open to very serious objections, as applied to the case of a suit by the Chinese government for *duties*. That is to say, our courts are free to foreign sovereigns for many purposes; but non constat that they are in all cases. And, among the questionable

[1] Rep. of Columbia v. Rothschild, i Sim. p. 94.
[2] Republic of Mexico v. Arrangoiz, MS.
[3] Referred to in Peter v. Steel, iii Yeates, 250, 251.
[4] King of Spain v. Oliver, ii Wash. C. C. R. 429.
[5] King of Spain v. Oliver, i Peters' C. C. R., p. 276. See also ibid., p. 217

matters, are things of *political* obligation, as distinguished from municipal engagement.[1] This consideration may or may not be material to the present inquiry. At any rate, it suggests reflection as to the bearing of the treaty upon the question.

568. On referring to the treaty with China, not a single word is found which implies that the judicial authorities of the United States there may entertain the suit of a government or sovereign. The treaty mentions explicitly "the subjects of China" and "the subjects of other governments," and "subjects" alone, as the parties to legal controversy, in which the public officers of the United States are to intervene. But the statute, as we have already seen, is but co-extensive with the treaty, and confers jurisdiction of those controversies, whatever they they may be, which the treaty contemplates as the object of legal adjudication, and no others. Of course, as it would seem, the consular courts cannot entertain a suit by the government of China.

Questions involving payment of duties.

569. There is another class of considerations, which is conclusive. It is, that the treaty makes full provision as to the mode of assessing duties, and the means of securing their payment; and the provision on these points consists of political engagements. The consul of the United States is to adjust all disputes of appraisement with the Chinese superintendent of customs. That is political, not judicial, action. So, without payment of duties, the superintendent refuses to deliver a clearance, and the consul withholds the ship's papers. This is political action on both sides. And it is preventive action, and, therefore, better than remedial. The

[1] Nabob of Carnatic v. East India Com., i Ves., pp. 371, 388; ii Ves., p. 55.

government of the United States engages to the government of China, that, until the duties be adjusted, no ship shall receive her papers; and the consul sees to this on the part, and as the officer, of the United States.

570. It is not maintained that the treaty might not have stipulated a purely judicial remedy in these cases, but only that it has not done this. It has provided other remedies, such as the high contracting parties at the time saw fit to agree to by sovereign convention. If it be desirable on either side to change the provision of the treaty in that respect, and to open the consular courts to the Chinese government for the collection of duties, and to that and all other governments, as courts within the United States are, an opportunity may hereafter be afforded when the treaty becomes subject to revision and amendment. But whether any such change be expedient or not, is a diplomatic question, for the determination of the President.

571. The act of Congress, which is here commented on, is a most important and valuable one. It made provision, however, for a description of cases, new, in form at least, to the legislation of the United States, and subject, of course, to such amendment as time and experience might show to be desirable. Instructive suggestions on this point have been presented to the Department by the commissioner of the United States in China.[1] Importance of the act.

[1] Mr. Marshall to Mr. Marcy, December 8, 1853, Ex. Doc. No. 133, B, 33d Congress, 1st sess., p. 331.

CHAPTER XXXI.

DUTIES OF UNITED STATES CONSULAR OFFICERS TOUCHING THE SOLEMNIZATION OF THE RITE OF MARRIAGE.[1]

Consular marriages.

572. It has heretofore been the practice, to some extent, of the consuls of the United States abroad to marry parties, either citizens of the United States or not, and this without observance of the laws of the particular place regarding marriage; and the inquiry is suggested whether such marriages are valid in the United States, either as to the personal *status* of the parties themselves and their issue, or as to any of the rights of property depending on the matrimonial relation.

International law private.

573. This inquiry belongs to international law *private*, as distinguished from international law *public:* that is to say, it regards, not the relations of nations among themselves, but the relations of individuals to the laws, civil or criminal, of different nations.[2]

Community of Christian nations

574. The different states of Christendom are combined, by religious faith, by civilization, by science and art, by conventions, and by usages or ideas of right having the moral force of law, into a community of nations, each politically sovereign and

[1] This chapter embraces substantially an opinion of the Attorney General, dated November 4, 1854, given at the request of the Department of State, and which has received its sanction, touching the law of marriage, so far as relates to its celebration by United States consular officers. The importance of the subject and a misapprehension which prevails in relation to the duties of United States consular officers therewith, require its careful consideration.

[2] Fœlix, Dr. Int. Privé, tit. prél.

independent of the other, but all admitting much interchange of legal rights or duties.[1]

Sovereignty of states.

575. As between themselves, the general rule of public law is, that each independent state is sovereign in itself, and has more or less complete jurisdiction of all persons being, matters happening, contracts made, or acts done, within its own territory.[2]

Law of nations.

576. Although each nation possesses its territory as its own, and exercises jurisdiction within itself, not only as to persons, whether subjects or foreigners, their acts and their property therein, and in general neither claims for itself, nor concedes to others, external jurisdiction, yet each yields to the other certain reciprocal rights within itself, which are sometimes denominated by the civil law term of servitudes of the public law or law of nations.[3]

How established.

577. These privileges, servitudes, or easements of public law, have grown up either by express convention, or by usage founded on consent.[4] Among them are the effect which, in certain cases, one state concedes to the laws of another in regard to contracts made in the latter, and the reciprocal rights conceded of personal residence or commercial intercourse, and of the interchange of ministers and consuls; which concessions modify to a certain degree the hypothetical completeness of the internal sovereignty of each nation.

Statute personal and statute real.

578. Hence, in all the discussions of private international right, the fundamental and all-pervading

[1] Vattel, Droit des Gens, Prél. s. 11; Wheaton's Elements, p. 40; Garden Code Dip. de l'Europe, tom. I, Int. p. 3.

[2] Kluber, Droit des Gens, s. 21 and passim; Story's Conflict of Laws, ch. 2.

[3] Martens, Précis, s. 83.

[4] Per Ch. J. Marshall, The Exchange, Cranch, vol. VII, p. 136.

distinction between the statute personal, or the laws of one's own proper domicil, and the statute real, or the laws which are independent of the person, and which regulate in a foreign country his acts or interests irrespective of his domicil. The personal statute is transitory, and follows the person; the real statute is chiefly confined to things, which it controls only in the *locus rei sitæ*, or the given territory.[1]

Exterritoriality defined.

579. To the regular jurisdiction, however, of each country over persons, things, and acts being or done within it, there exist, by received public law, certain absolute exceptions. These exceptions are the several cases of exterritoriality: that is, the various conditions in which a person, though abroad, is exempt from the foreign jurisdiction, and is deemed to be still within the territory and jurisdiction of his own country.

Its reality.

580. The doctrine of exterritoriality is denounced by some speculative publicists as if it were a mere fiction of law.[2] This view of the matter is superficial, for it is only a cavil as to the name; and erroneous, because it argues upon the name, and not the thing which it represents.

Explanation of the term.

581. The word "exterritoriality" is a sufficiently definite technical designation for the peculiarity of legal condition already defined as attaching to certain persons in a foreign country, to wit, the case of an actual sovereign of an independent state, his person, suite, residence, and furniture, while he resides or sojourns peaceably in a foreign country; a foreign army, whether in peace or war; a ship of war gener-

[1] Dalloz, Dict. Juris. s. v, Loi Pers.; Proudhon, Des Personnes, tom. I, p 8.

[2] See Pinheiro Ferreira, Droit Public, tom. II, p. 197.

ally, and sometimes a merchant ship in a foreign port, and either of them on the high seas, in all circumstances; and a foreign ambassador.[1]

Extent of the privilege.

582. In all these cases, and expressly in that of foreign ministers, the privilege of exterritoriality extends to the residence as well as the person of the foreign minister, and to certain legal acts performed in his presence.[2]

Exterritorial privileges not enjoyed by consuls.

583. Such are the rights of an ambassador or other foreign minister. But, although consuls are not merely commercial agents, as many authors assert;[3] and although they undoubtedly have certain of the qualities and some of the rights of a foreign minister;[4] still it is undeniable that they do not enjoy the privileges of exterritoriality, according to the rules of public law received in the United States.[5]

Consuls subject to local jurisdiction.

584. In all the adjudged cases above cited, it is either expressly ruled, or the point presented assumes, that consuls are subject to the local jurisdiction. The same doctrine is recognised in the modern

[1] Wheaton's El., p. 139.

[2] Vattel, l. viii, ch. 7, 8, 9; Kluber, s. 204; Martens, Précis, l. vii, ch. 5; Fœlix, liv. ii, tit. 2, ch. 2, s, 4; Ch. de Martens, Guide Diplomatique, ch. 5.

[3] Wicquefort, Ambas. vol. I, p. 133; Bynkersh. de F. Legat., p. 165; Wildman's Institutes, p. 165.

[4] See De Cussy, Réglements Consulaires, sec. 7.

[5] Clark v. Cretico, i Taunton, 106; The Anna, iii Wheaton, 446; United States v. Ravara, ii Dallas, 297; Viveash v. Beeker, iii Maule & Sel., 284; Barbuit's case, Cases Temp. Talbot, 281; Commonwealth v. Kestoff, v Serg. & R., 545; Durand v. Halback, i Miles, 46; Davis v. Packhard, viii Peters, 276; S. C., vi Wend., 327; S. C., x Wend., 50; Flynn v. Stoughton, v Barb. S. C. R., 115; State v. De la Foret, ii Not & M., 217; Mannhard v. Soderstrom, i Bin., 138; Hall v. Young, iii Pick., 80; Sortori v. Hamilton, i Green's R., 107.

law treatises of most authority, whether in the United States or in Great Britain.[1]

Diplomatic privileges not accorded to consuls.

585. Notwithstanding the somewhat vague speculations of Vattel and some other continental authors on the question whether consuls are quasi ministers or not,[2] it is now fully established by judicial decisions on the continent, and by the opinions of the best modern authorities there, that consuls do not enjoy the diplomatic privileges accorded to the ministers of foreign powers; that in their personal affairs they are justiciable by the local tribunals for offences, and subject to the same recourse of execution as other resident foreigners; and that they cannot pretend to the same personal inviolability and exemption from jurisdiction which foreign ministers enjoy by the law of nations.[3]

Limitation of consular privileges.

586. In truth, all the obscurity and contradiction as to this point in different authors arise from the fact that consuls do unquestionably enjoy certain privileges of exemption from local political obligation; but still these privileges are limited, and fall very far short of the right of exterritoriality.[4]

Consular privileges.

587. Thus, in the United States, consuls have a right, by the Constitution, to the jurisdiction of the federal courts as against those of States. They are privileged from political or military service, and from personal taxation. In some cases we have by

[1] Wheaton's Elements, p. 293; Kent's Com., vol. I, p. 43; Wildman's Inst. vol. I, p. 130; Flynn's Brit. Consuls, ch. 5.

[2] Vattel, Droit des Gens, l. iv, ch. 8; De Cussy Réglements Consulaires, sec. 6; Moreuil, Agents Consulaires, p. 348; Borel, Des Consuls, ch. 3.

[3] Fœlix, l. ii, tit. 2, chap. 2, s. 4; Dalloz, Dic. de Jurispr., tit. Agents Diplomatiques, no. 35; Ch. de Martens, Guide Diplomat., s. 83.

Massé, Droit Commercial, tom. I, nos. 338, 439.

treaty given to consuls, when they are not proprietors in the country, and do not engage in commerce, a domiciliary and personal immunity beyond what they possess by the general public law; and the extreme point to which these privileges have been carried in any instance may be seen in the consular convention of the 23d of February, 1853, between the United States and France.[1]

The marriage contract.

588. In regard to the contract of marriage, the general principle in the United States is, that, as between persons *sui juris*, marriage is to be determined by the law of the place where it is celebrated. If valid there, then, although the parties be transient persons, and the marriage not in form or substance valid according to the law of their domicil, still it is valid everywhere—with some exceptions, *perhaps*, of questions of incest and polygamy. If invalid where celebrated, it is invalid everywhere.[2]

Exceptions to the general rule as to the validity of marriages.

589. The only exceptions to this last proposition, namely, that marriages not valid by the *lex loci contractus* are not valid anywhere else, are, first, in favor of marriage, when parties are sojourning in a foreign country where the law is such that it is impossible for them to contract lawful marriage under it. Secondly, in certain cases in which, in some foreign countries, the local law recognises a marriage as valid when contracted according to the law of domicil. Thirdly, where the law of the country goes with the parties, that is, in the contingency of their personal exterritoriality, as in the case of an army and its followers invading or taking possession of a

[1] Statutes at Large, vol. X, p. 994.

[2] Story's Conflict of Laws, s. 113; Bishop on Marriage, s. 125.

foreign country;[1] and, perhaps, of an army *in transitu* through a friendly state,[2] and of a foreign ship of war in the ports of the nation.[3]

Marriage; how to be celebrated.

590. It follows by necessary consequence, save in the excepted cases enumerated, that a marriage, celebrated in any given place, must be celebrated according to the law of the place, and by a person whom those laws designate, unless the person by whom, or the premises in which, it is celebrated, possess the privileges of exterritoriality. Therefore it may be, according to the opinion of Lord Stowell, that the presence of a foreign sovereign sojourning in a friendly country, or that of his minister plenipotentiary, or the act of a clergyman in the chapel or hotel of such sovereign or his ambassador, may give legality to marriage between subjects of his or members of his suite.[4]

Right of a foreign sovereign or ambassador to celebrate marriages.

591. But even such right of a foreign sovereign or his ambassador to celebrate a marriage, if it exist, applies only to his subjects, countrymen, or suite. Such persons would be married according to the law of their domicil, or that of the sovereign or ambassador in whose service they are, on the assumption that for all the purposes of legal right their domicil goes with them, and that they are still at home, and in point of law are not in the foreign country where the marriage is in fact celebrated. A marriage celebrated by such sovereign or his ambassador in a foreign country, between citizens of that country, or

[1] Ruding v. Smith, ii Hag. C. R., 371; Huber. Prælec. J. C. de con. leg., l. i, tit. 3, s. 10; J. Voet. in Dig. l. xxii, tit. 2.

[2] Wheaton's El., p, 140. [3] The Exchange, Cranch, vol. VII, p. 136.

[4] Ruding v. Smith, ii Haggard's C. R., 371; Prentiss v. Tudor, i Hagg. C. R., 136; i Burge on Col. & F. Laws, p. 168.

foreigners residing or sojourning there, would derive no force from him: it would be null and void unless legal according to the law of the place.

Consuls have no power to celebrate marriages.

592. Consuls, it is still more evident, have no shadow of power to celebrate marriage between foreigners. Nor can they between their own countrymen, unless expressly authorized by the law of their own country; because, according to the law of nations, they have not the privileges of exterritoriality, like an ambassador. That American consuls have no such power is clear, because it is not given to them by any act of Congress, nor by the common law of marriage as understood in the several States.[1] And marriage, in the United States, is not a federal question, but one of the resort of the individual States.[2] Hence, it is impossible to doubt:

Consular marriages; when valid.

First, that marriages celebrated by a consul of the United States in any foreign country of Christendom, between citizens of the United States, would have no legal effect here, save in one of the exceptional cases above stated, of its being impossible for the parties to marry by the *lex loci;*

And, secondly, that marriages celebrated by a consul of the United States, in a foreign country, between parties not citizens of the United States, would have no legal effect here, unless in case they be recognised expressly as valid by the law of the place of contract.

Marriage in Scotland.

593. In countries where the mere consent of the parties, followed by copula, constitutes marriage, as in Scotland,[3] and where the presence and testimony

[1] Kent v. Burgess, xi Simons, p. 361. [2] Bishop on Marriage, passim.

[3] McAdam v. Walker, i Dow's R., 148; Dalrymple v. Dalrymple, ii Hagg. C. R., 97.

of any person whatever suffice to prove the consent, there a marriage contracted before a foreign consul might be valid, not because he is consul, but because the consent makes the marriage.

Double alienage in relation to the matrimonial law.

594. But, in most countries of Europe, specific forms of law are to be followed, without which there can be no valid marriage; and as it appears that the marriages which the consuls of the United States have celebrated abroad, have in most cases been celebrated between persons collected at some seaport for the purpose of emigration, and who are not only foreigners as regards the United States, but foreigners also as regards the place in which the marriage is celebrated, it becomes material to consider the question, in the sense of this impediment of double alienage, in its relation to the law matrimonial of the United States.

General rule.

595. The general rule of our law is to ascribe validity to marriages when they are valid at the place of celebration.

When parties are in their own proper domicil.

596. If the parties to the marriage are at the time actually in their own proper domicil, as in the case of Spaniards domiciled in Barcelona, and married there, it is clear that the local jurisdiction is absolute and complete, and that a consul of the United States has no more right to celebrate a marriage between such parties there, than he has to undertake the duties of Captain General.

When foreigners.

597. Suppose, however, that the parties are foreigners to the foreign place, and at the same time not citizens of the United States?

Application of laws to absent

598. The other governments of Christendom, and especially those of Europe, are, it is notorious, much

more exacting and punctilious than the United States in the application of their own laws of personal *status* to their own subjects when absent from their country. We may not regard this, but they do among themselves; and therefore it is important to look at the legal bearings of a marriage celebrated in one European country between the subjects of some other government of Europe.

subjects of foreign states.

599. The general rule there is, that the civil obligations of a person follow him into a foreign country, save that in some countries forms are prescribed, according to which a subject may relieve himself of his allegiance to his natural sovereign, and the consequent civil obligations. It is believed that many of the persons who emigrate from Europe to the United States have not taken these preliminary steps; and therefore, until they shall have acquired a new domicil in the United States, and while they are sojourning in some other foreign country on their way for, and previous to, their embarkation, they must of necessity be still subject to the law of their domicil in so far as this law is respected by the country of their transit or of their temporary sojourn; and the question of the validity of their marriage there by a foreign consul must depend on this legal condition of the parties in the countries of Europe.

Validity of marriages as affected by the legal condition of the parties.

600. In order to appreciate the legal relations in Europe of a marriage between parties foreign to the place of marriage, we may take, as a convenient example, the state of the law in France.

Law in France.

601. In France, of course, all Frenchmen must conform to the precise provisions of their own law; and, as a general rule, if they marry abroad, they

Law of marriage in France.

must observe certain of the conditions of the Code Civil, in order to give effect to the marriage in France.[1]

Foreign marriages of Frenchmen.

602. In regard to such foreign marriages of Frenchmen, it has been adjudged by the courts of that country, that,—

1. Frenchmen long established in a foreign country, and who have reserved no habitation and have no domicil in France, are not held to the forms of public notice there required by the Code.[2]

2. Generally, all acts appertaining to the civil condition of Frenchmen abroad may be proved by the modes of proof practised in the foreign country; and, therefore, a marriage may be proved by witnesses, or by the certificate of a diocesan, when celebrated in a foreign country where no registers of civil condition exist conformable to the Code.[3]

3. There are no differences of opinion as to the point, that Frenchmen who marry abroad must conform to the provisions of the Code as to capacity, age, consent, and other conditions of substance; but there are contradictory decisions and opinions as to the point, whether it be or not essential to the validity of such marriage that there should have been previous publication of bans in France; and whether, if this be a radical defect, it is curable or not;[4] because the article of the Code which legalizes a marriage contracted between Frenchmen abroad according to the forms used in the foreign country, adds, provided (*pourvu*) the marriage be

[1] Code Civil, no. 170; Fœlix, ubi supra, no. 88.

[2] Dalloz, Dict. Jur., Mariage, no. 374. [3] Dalloz, ubi supra, nos. 346, 356.

[4] Dalloz, ubi supra, nos. 357, 375.

preceded by the publication of bans, and do not contravene the other conditions of law, as prescribed by the first and second chapters of the fifth title of the Code.[1]

4. The Code provides that any civil act of Frenchmen abroad shall be valid if it be drawn up in pursuance of the forms of the place, according to the rule *locus regit actum;* or if it has been received conformably to the laws by the diplomatic agents or consuls of France. It has been doubted whether this applies to marriage; though the better opinion is that it does.[2] It is said, however, that if one of the parties to a marriage by a French consul abroad is French and the other not, then the marriage is null, because the consul has no jurisdiction as to the party not French, and the marriage may be attacked by either party.[3] In one of the cases where this point was decided, the parties possessed an act of marriage, with twenty years' cohabitation, and two children.[4]

5. Finally, a marriage contracted in France by a foreigner according to the exterior forms prescribed by the law would be null, of intrinsic nullity, if the foreigner infringed any of the prohibitions of his statute personal; that is, of the personal law of his domicil.[5]

603. These views might be extended in detail to other countries of Europe. Thus, in the Dutch Netherlands, in addition to the conditions of compe- Marriage in the Netherlands.

[1] See Toullier, Droit Civil, tom. I, nos. 574, 579.

[2] Dalloz, ubi supra, nos. 362, 363; Toullier, Droit Civil, tom. I, no. 360; Merlin, Répert, Mariage, p. 641.

[3] Dalloz, ubi supra, nos. 365, 366.

[4] Proudhon, Tr. des Personnes, tom. I, note *a*. [5] Fœlix, ubi supra, s. 88.

tency and of publication of bans, there must be legal contract before the proper magistrate, without which the marriage is a nullity.[1] As to this, no exception is made in favor of any persons whatever, being foreigners, or *in itinere*, or otherwise.[2] So, in Spain, marriage must be solemnized by prescribed rule, that is, through the intervention of the parish priest, or other clergyman with license of his ordinary, according to the articles of the Council of Trent concerning the reformation of matrimony.[3]

In Spain.

Objections to consular marriages.

604. It is unnecessary to extend these examples. Suffice it to say, that in some countries religious or ecclesiastical impediments exist; in others, where that is not the case, the legal conditions of capacity and requisite forms are very serious obstacles. A critical examination of the law of different countries of Europe would only serve to augment the weight of legal objections to the celebration of marriages by consuls of the United States.

A consular marriage; when and how objectionable.

605. It may be, that a marriage between foreigners celebrated by a consul of the United States abroad, though utterly null in the country where it is celebrated, might, if the parties emigrate to this country, acquire validity in some of the States of the Union, as a marriage proved by repute and by cohabitation following consent, according to the old rule of the common law. Even then, the certificate of the consul would not constitute the marriage; it would serve at most only as proof of consent, to be connected with proof of cohabitation. But the

[1] Van der Linden, by Henry, p. 83.

[2] See Ruding v. Smith, ii Hag. C. R, 371, note.

[3] Tapia, Febrero Novis, lib. I, cap. 2; Sala, Derecho real de España, lib. I, tit. 4.

practice of celebrating such marriages would be objectionable, because it is in fraud of the local jurisdiction, and contrary to the dictates of international comity, if not to positive law.

Countries Christian or otherwise.

606. In what precedes, the inquiry has been treated as relating entirely to marriages assumed to be legalized by consuls of the United States residing officially in any of the countres of Christendom. For, in regard to states not Christian, although we make treaties with them as occasion may require, and assert in our intercourse with them all such provisions of the law of nations as are of a political nature; yet we do not suffer, as to them, that full reciprocity of municipal obligations and rights which obtains among the nations of Christendom.

Exterritoriality of Americans in China.

607. This point is determined very explicitly in our treaty with China, which, in the most unequivocal terms, places all the rights of Americans in China, whether as to person or property, under the sole jurisdiction, civil and criminal, of the authorities of the United States;[1] and Congress has made provision to meet the exigencies of the treaty in this respect.[2]

Exterritoriality of Americans in Turkey.

608. The treaty of the United States with Turkey is less explicit on this point; but it expressly ascribes to citizens of the United States exterritoriality in criminal matters,[3] provision as to which is made by the above cited act of Congress; and as the treaty stipulates how controversies in Turkey, between citizens of the United States and subjects of the Porte, shall be adjudicated, that is, by the local authorities in presence of a representative of

[1] Statutes at Large, vol. VIII, p. 592. [2] Ibid., vol. IX, p. 276.
[3] Ibid., vol. VIII, p. 408.

the United States; and as it stipulates that only a certain class of litigation shall be submitted to the Porte; and as it gives to Americans in Turkey all the rights of the most favored nation, with express reference to "the usages observed towards other Franks,"—it might be assumed that the doctrine of exterritoriality applies to Americans in Turkey, as it certainly does to subjects there of all the Christian states of Europe.[1]

Other Mohammedan governments.

609. Our treaties with the minor Mohammedan governments of Tripoli, Morocco, Muscat, and Bruni, are even less explicit than that with Turkey. Still, it may be assumed in regard to them, as a principle of the international law of the world, so far as there is any, that, unless there be express agreement to the contrary, no Christian nation admits a full reciprocity of municipal rights as between itself and any state not Christian; and therefore, that in the Mohammedan governments above enumerated, Americans possess the rights of exterritoriality which belong to all other "Franks," that is, the races of independent Christian Europe and America.[2] A single provision of our treaty with Siam is, in the international relations of the United States, the solitary exception, it is believed, to the rule that the municipal rights of citizens of the United States are not subject to the local law of any state not Christian. We deal with such states as *governments*, and apply to them, so far as we can, the doctrines of our international law.[3] But, when we

[1] Moreuil, Guide des Agents, Consulaires, tit. 2.

[2] See Ward's Law of Nations, vol. II, passim; Kluber Droit des Gens, 4 id.; Wildman's Institutes, vol. I, p. 130.

[3] The Helena, iv Robins. Adm. R., 5.

speak of the law of nations, we mean the international law of the nations of Christian Europe and America. Our treaties with nations other than these bring them practically within the pale of our public law, but it is only as to *political* rights: municipal rights remain as they were.[1]

Oriental states.

610. The doctrine above enunciated applies to Japan; to the minor independent states of Asia and its islands, whether Mohammedan, Indo-Chinese, Malay, or what others; to the barbaric political communities of Africa; and still more to the petty insular tribes of Oceanica.

Hawaiian states

611. Our treaty with the Hawaiian Islands places them on the footing of a Christian state, with the municipal rights belonging to the international law of Christendom.[2]

Contracts in states not Christian.

612. Now, in regard to the states not Christian, not only the Mohammedan states, but all the rest, the true rule appears to be, that contracts of citizens of the United States in general, and especially the contract of marriage, are not subject to the *lex loci*, but must be governed by the law of the domicil; and that, therefore, in such countries, a valid contract of marriage may be solemnized, and the contract authenticated, not only by an ambassador, but by a consul of the United States.

English authorities on the subject of marriage.

613. The English authorities come to substantially the same conclusion, for similar reasons. "Nobody can suppose," says Lord Stowell, "that whilst the Mogul empire existed, an Englishman (in Hindostan) was bound to consult the Koran for the celebra-

[1] Wheaton's Elements, p. 44; Polson's Law of Nations, p. 17; Phillimore's International Law, p. 86.

[2] Statutes at Large, vol. IX, p. 977.

tion of his marriage."[1] In most of the Asiatic and African countries, indeed, law is personal, not local, as it was in many parts of modern Europe in the formative period of its present organization. Hence, in British India, Hindus, Parsis, Jews, Mohammedans, Christians, all marry according to the law of their religion. The ecclesiastical law of England goes further than this, for it recognises the marriage of Englishmen, celebrated according to the English law, that is, by a clergyman, in British factories abroad, though situated in Christian countries, but countries of the Roman Catholic or Greek religion.[1] Indeed, in the preceding cases, as in others, the English authorities, as has already been seen, lay down the broad rule, that where, owing to religious or legal difficulties, the marriage is impossible by the *lex loci*, still a lawful marriage may be contracted, and of course authenticated, by the best means of which the circumstances admit, as in many cases of marriages contracted in the East Indies and in other foreign possessions of Great Britain.[2]

Ecclesiastical law in England.

Canon law.

614. This doctrine is conformable to the canon law, which gives effect to what are called *matrimonia clandestina*, that is, marriages celebrated without observance of the religious and other formalities decreed by the Council of Trent,[3] when contracted in countries where, if those decrees were enforced, there could be no marriage.[4] In such countries, in the absence of a priest, there may be valid mar-

[1] Ruding v. Smith, ii Hagg, C. R., p. 371; Kent v. Burgess, xi Simons, p. 361.

[2] See Catterall v. Catterall, i Roberts, p. 580.

[3] Cavalario, Derecho Canonico, tom. II, p. 172; Escriche, s. v. Matr.

[4] Walter, Derecho Eclesiastico, s. 292, 294.

riage by consent alone, conformable to the canon law as it it stood before the Council of Trent, either by *verba de præsenti* or by *verba de futuro cum copulâ*, as happened *ex necessitate rei*, under the Spanish law, in remote parts of America. Of course, in circumstances like this, a marriage might be legalized by a mere military commandant.[1]

Consular marriages in Mohammedan and Pagan countries.

615. This doctrine applies to the present question; for, seeing that by the common law of marriage, as now received in all, or nearly all, the States of the Union, marriage is a civil contract, to the validity of which clerical intervention is unnecessary,[2] it would seem to follow, at least as to all those countries, barbaric or other, in which there is in fact no *lex loci*, or those Mohammedan or Pagan countries, in which, though a local law exist, yet Americans are not subject to it, that there the personal statute accompanies them, and the contract of marriage, like any other contract, may be certified and authenticated by a consul of the United States.

Marriages in Christian countries.

616. But this doctrine does not apply to the countries of Europe, or their colonies in America or other parts of the world: in all which there is a recognised law of the place, and the rule of *locus regit actum* is in full force. There a consul of the United States has no power to celebrate marriage between either foreigners or Americans.

Consular certificates to promises of marriage.

617. It appears that, in some parts of Europe, in consequence of poverty or other impediments thrown in the way of marriage, there is great prevalence of concubinage; that the desire of lawful cohabitation enters into the inducements of emigration; and that

[1] Patton v. Phil. and New Orleans, 1 La. An. R., p. 98.

[2] Bishop on Marriage, s. 163.

it becomes an object, especially with emigrant females, to obtain, before leaving their country, if not a marriage, yet an assured matrimonial engagement; and that such parties are in the practice of entering into mutual promises of marriage, and procuring the contract to be certified by the consul of the United States. Such a contract would probably give rights of action to the parties in this country; it must have a tendency to promote good morals, and be particularly advantageous to the party most needing protection—that is, the female emigrant; and nothing in our own laws, or in our public policy, seems to forbid it, unless it be contrary to the law of the land in which the contract is made.

Marriages of emigrants.

618. It has been suggested[1] that there are considerations which render it desirable that consuls in Germany, especially at the points of collection or embarkation of emigrants, should possess the power to legalize matrimony. Although there is much force in what has been said on the subject, nevertheless it remains indisputable that consuls do not, in fact, possess the power; and that it cannot be imparted to them by any act of the Department of State.

Mode by which consuls could be authorized to celebrate marriages.

619. They might possibly acquire it in three ways, namely: first, by municipal act of any foreign government giving legality to a marriage within it so celebrated, in which case there would be nothing in our law, or in our public policy, to forbid a consul officiating in that relation; secondly, *perhaps*, specially by treaty, or generally by act of Congress.

1 Despatch (MS.) of Mr. Samuel Ricker, U. S. consular officer at Frankfort-on-the-Mayn.

But these are questions of political expediency, not of practical jurisprudence.

620. It is suggested that no notice has been taken of "the difference between consuls who are subjects of the state where they reside, and those who are not such subjects." Undoubtedly such difference exists, since a subject cannot escape his local obligations by means of an appointment as foreign consul; but that is immaterial to the question, because the consul does not, by reason of his being a foreigner, become therefore authorized to solemnize marriage. If, indeed, being a subject of the state, he have power as a local magistrate to solemnize marriage, or, being a foreigner, he have the same power as a clergyman, he may do it; but, in either case, not in his capicity of consul. Objections answered.

621. Another point of consideration is further suggested, namely, "the difference between consuls residing in a state where there is a minister representing the government by whom they were appointed, and consuls residing in a state where there is no minister," and the peculiar importance of this point in Germany has been mentioned. It is true, that in a country where his government has no minister, the duties of the consul expand, of necessity, into a larger field, because he will be called upon to communicate with his own government, or with that near which he resides, in matters which would otherwise devolve on a minister; but that circumstance does not cure his legal incapacity *as consul* to solemnize marriage without authority of the local government.

CHAPTER XXXII.

INSTRUCTIONS TO CONSULAR OFFICERS IN THE BRITISH NORTH AMERICAN PROVINCES.

Reciprocity treaty with Great Britain.

622. Under the treaty of reciprocity with Great Britain, concluded the 5th June, 1854, the following articles are entitled to free entry into the United States:[1]

Animals of all kinds; ashes, comprehending pot and pearl ashes; black salts and salts of ley; bags, barrels, or other original packages, containing flour, wheat, or other free product, provided the article so contained is not usually imported in bulk, and the envelope is appropriate and ordinarily used in the conveyance of such article, but where the character of the package may induce reasonable suspicion of an intent to evade the payment of the duties imposed by law, the collector is authorized to make seizure of the same, and report the facts to the Treasury Department; barley; bark of hemlock or other trees; beams, when rough hewn or sawed only; beans; boards, when rough hewn or sawed only; bran; breadstuffs, of all kinds, not further manufactured than flour or meal; broom corn; burr stones, hewn or wrought, or unwrought; butter; Canada balsam, collected from a species of the pine tree, as turpentine; castoreum, a product of the beaver; cattle tails, if undressed; cheese; clapboards, if rough hewn or sawed only; coal; corn, Indian, or maize; cotton wool; dried fruits; dyestuffs; fish, of all kinds, products of fish, and of all other creatures living in the water, the exemption from duty to extend to the fisheries of Newfoundland and Labrador; fish, wholly or partly cooked, in cans hermetically sealed; fire-wood; flax, unmanufactured; flour of all kinds; fresh meats; fruits, dried or undried; fruits, preserved, in cans her-

1 Decisions of the Treasury Department, No. 63, February 1, 1856.

metically sealed; furs, undressed; grain of all kinds; grindstones, hewn or wrought, or unwrought; gypsum, ground or unground; hair, on the hide or skin, or tail thereof, undressed; hemp, unmanufactured; hides undressed; horns; horn tips; hubs for wheels, if rough hewn or sawed only; knees for vessels, do. do.; lasts, last blocks, and laths, do. do.; lard; linseed; lumber of all kinds, round, rough hewn, or sawed only; manures; marble, in its crude or unwrought state; meal of all kinds; meats, fresh, smoked, or salted; meats, wholly or partly cooked, preserved without oil or spirits, in cans hermetically sealed; middlings, (as flour); mill feed, (as flour); nuts; oats; oatmeal; oil, from fish; ores of metals of all kinds; palings, pickets, posts, &c., if rough hewn or sawed only; pates, or scraps of raw hides or skins; pearl and pot ash; peas; pelts; pitch; plants; potatoes; poultry; poultry, cooked wholly or partly, preserved in cans hermetically sealed; products of fish, and all other creatures living in the water; provender, from wheat or other grain; rags; railroad ties, rough hewn or sawed only; raw hides and skins, or parts thereof; rice; rotten wood; salted meats; salts of ley and black salts, (see ashes); sausages and sausage meat; saw-logs; scantling, rough hewn or sawed only; screenings from grain; seeds; shingles, rough hewn or sawed only; shingle bolts and shingle wood, do. do.; shipstuffs, as breadstuffs; shrubs; skins, or tails, undressed; skins, or parts thereof, undressed; slate; spars, round and sawed only; spokes of wheels, if rough hewn or sawed only; stone, in its crude or unmanufactured state; tails, undressed; tallow; tar; timber of all kinds, round, rough hewn, or sawed only; tobacco and tow, unmanufactured; trees; turpentine vegetables; vegetables, wholly or partly cooked, preserved in cans hermetically sealed; venison; wool, unmanufactured.

623. The following articles are liable to duty under the existing revenue laws:

Axle trees, for carriages; beams; bears' grease; beeswax; boards; biscuit; bread; cakes; clapboards; felloes for wheels; grease, of all kinds, except butter, tallow, and lard; gunpowder; gypsum, calcined; hay; hops; iron, in pigs and blooms; hubs for wheels; knees for vessels; laths; lasts; last blocks; lime; malt; milk; mineral water of St. Catharines; oil cake; plaster of Paris, calcined; palings; pickets; posts; railroad ties; scantlings; shingles; shingle bolts; shingle wood; spars; spokes for wheels; spirits of turpentine.

Articles of wood.

624. Articles of wood designated in the preceding section remain liable to duty under the existing tariff, if manufactured in whole or in part by planing, shaving, turning, splitting, or riving, or any process of manufacture other than rough hewing or sawing.

Affidavits to invoices.

625. On importations from the North American British provinces claiming exemption from duty under the stipulations of the reciprocity treaty, the affidavit of the owner is required as to the place of growth or production of the merchandise; and when the same is imported from a place where there is a consular officer, the claim must be accompanied by a certificate of such officer, according to Form No. 52, 53, 54, or 55, as the case may require, showing the place of growth or production.

Proof of origin.

626. When the required proof of origin is not produced at the time of entry, the merchandise may be entered and delivered to the owner or importer on due appraisement, as in case of imports subject to duty, and due execution of a bond, in double the amount of duties, with satisfactory sureties.

Entry of merchandise.

627. Due entry must be made of the several descriptions of merchandise, from the aforesaid possessions of Great Britain, entitled to be entered free

of duty, in conformity with the 7th section of the act of Congress of the 10th February, 1820, "to provide for the obtaining of accurate statements of the foreign commerce of the United States."

Fee for permit.

628. No article, though entitled to entry free of duty, can be landed without permit from the collector; and for such permit a fee of twenty cents is chargeable by law.

Additional duty for under-valuation.

629. The "additional duty" levied by a provision of the 8th section of the tariff act of the 30th July, 1846, for under-valuation in the invoice of importations of articles from the British provinces, entered and duties paid prior to the promulgation of the proclamation of the President of the United States of the treaty of reciprocity, cannot be refunded under the provisions of said treaty, such "additional duty" being considered by the Treasury Department as in the nature of an additional impost or tax incurred by the intention to violate the revenue laws, and therefore not entitled to be placed on the same footing, in regard to the refunding of duties, with the regular duties, exclusively in view of the treaty, and of the laws enacted to carry it into effect.

Indirect shipments.

630. Articles, the product or manufacture of the British provinces, shipped direct to a port in the United States from London, Havana, or any port or place other than that of their production or manufacture in one of said provinces, are not entitled to free entry under the reciprocity treaty.

Hudson's Bay Company.

631. Hudson's Bay Territory, or Prince Rupert's Land, is not comprehended among the British provinces or colonies referred to in the reciprocity treaty between the United States and Great Britain.

Invoices.

632. Shipments of merchandise by several vessels cannot be embraced in a single invoice, and be covered by a single consular certificate. The merchandise shipped by each vessel must be embraced in a distinct invoice, duly verified, if on foreign account, by the oath of the owner, and authenticated by a consular certificate.

Shipments of merchandise by the way of the St. Lawrence.

633. Foreign merchandise destined for a port of the United States by way of the river St. Lawrence, is not unfrequently transhipped from the importing vessel to one or more vessels of light draught, and on arrival at the port of destination is found to be unaccompanied by the documents entitling it to entry. Where all the articles embraced in the invoice are transhipped on the St. Lawrence to a single vessel, the proper invoice must be presented on entry, together with a copy of the clearance from the foreign port of exportation of the vessel from which the transhipment took place, certified to be a true copy by the collector or other chief revenue officer of the Canadian port at which the vessel was entered. When the articles embraced in a single invoice are transhipped on the St. Lawrence to several vessels, they will be admitted to entry on the production of the proper invoice, and a statement under oath of the person or agent superintending the transhipment, describing the articles, by numbers, marks, &c., transhipped to each vessel, and stating in what invoice they are embraced, together with the certified copy of the clearance of the importing vessel, as above required.

CHAPTER XXXIII.

DUTIES OF CONSULAR OFFICERS IN RESPECT TO AMERICAN OWNERS OF FOREIGN-BUILT VESSELS.[1]

Owners of foreign-built vessels owned by American citizens.

634. Inquiry is frequently made of the Department of State and of the Treasury, as to what documents can be issued, under the laws of the United States, to foreign-built vessels purchased and *wholly owned* by citizens of the United States, whether purchased of belligerents or neutrals during a war to which the United States are not a party, or in peace, of foreign owners, the purchase in either case being in entire good faith.

Such vessels entitled to protection.

635. Vessels so purchased and owned are entitled to the protection of the authorities and flag of the United States, as the property of American citizens, although no register, enrolment, license, or other marine documents prescribed by the laws of the United States, can be lawfully issued to such vessels.

Bill of sale to be recorded and authenticated.

636. To enable, however, the owners of a vessel so circumstanced to protect their rights, if molested or questioned, a consular officer, though forbidden by law to grant any marine document or certificate of ownership, may lawfully make record of the bill of sale in his office, authenticate its validity in form and substance, and deliver to the owner a certificate to that effect; certifying, also, that the owner is a citizen of the United States. Before granting such certificate, the consular officer will require the tonnage of the vessel to be duly ascertained in pursu-

[1] General Regulations of the Treasury Department, No. 67, p. 62 et seq.

ance of law, and insert the same in the description of the vessel in his certificate. (See Form No. 56.) These facts, thus authenticated, if the transfer was in good faith, entitle the vessel to protection as the lawful property of a citizen of the United States; and the authentication of the bill of sale and of citizenship will be *prima facie* proof of such good faith.

Consular certificates.

637. In all cases, therefore, where the evidence of the purchase of a foreign vessel by a citizen of the United States, with proof of citizenship and of the *bona fide* character of the purchase, shall be furnished to a consular officer, he will, if the proof be satisfactory, and purchase deemed fair, record the bill of sale in his office, and deliver to the party the original, with a certificate endorsed thereon.

Disabilities of foreign-built vessels.

638. It is to be distinctly understood, however, that vessels not registered, enrolled, or licensed, under the laws of the United States, wholly owned by citizens thereof, cannot legally import goods, wares, or merchandise from foreign ports, and are subjected in the coasting trade to disabilities and exactions from which documented vessels of the United States are exempted.

When subject to forfeiture.

639. On arrival from a foreign port, such undocumented vessels, if laden with goods, wares, or merchandise, will, with their cargoes, be subjected to forfeiture. If in ballast only, or with passengers without cargo, they will be subject to a tonnage duty of one dollar per ton.

When subject to tonnage duty.

640. In the coastwise trade, such undocumented vessels, if laden with goods, wares, and merchandise of the growth or manufacture of the United States

nly, (distilled spirits only excepted,) taken in ithin one district of the United States to be disharged in another district within the same, or in allast, will be subjected at every port of the United tates at which they may arrive, to payment of the ees prescribed by law in the case of vessels not elonging to citizens of the United States, and to tonnage duty of one dollar per ton. But if they ave on board any articles of foreign growth or nanufacture, or distilled spirits, other than sea stores, uch vessels, with their tackle, apparel, furniture, nd the lading found on board, will be forfeited. And the master or commander of any such vessel ound from one district in the United States to nother district within the same, is required in all ases to comply with the provisions of the 22d and 24th sections of the coasting act of the 18th February, 1793, in regard to reports, manifests, permits, entries, and other requirements therein contained; and on neglect or refusal to comply with any of them, he will incur the penalties therein prescribed. These statute provisions apply to undocumented vessels passing from one collection district to another collection district within the United States; such vessels not being embraced within the provisions of the act of 2d March, 1819, and the 11th section of the act of 7th May, 1822, dividing the coast of the United States into certain great districts, for the better regulation of the coasting trade.

CHAPTER XXXIV.

COMMERCIAL REGULATIONS.[1]

Vessels admitted on the same terms as American vessels.

641. Vessels belonging to the following nations are admitted, under the provisions of law, treaties of commerce and navigation, or conventions, into the ports of the United States, on the same terms as American vessels, with the produce or manufactures of their own or any other country:

Argentine Confederation, Austria, Belgium, Brazil, Chile, (Denmark,[2]) Ecuador, Great Britain, Greece, New Granada, Guatemala, Hanover, Hanse-Towns, (Hamburg, Bremen, and Lubec,) Mecklenburg-Schwerin, Netherlands, Oldenburg, Peru, Prussia, Russia, San Salvador, Sardinia, Sweden and Norway, Tuscany, Two Sicilies,[3] Venezuela.

"The most favored nation."

642. Vessels belonging to the following nations, with which the United States have reciprocal treaties on the footing of "the most favored nations," or with which reciprocity exists by virtue of an act of Congress of the 24th day of May, 1828, are admitted into the ports of the United States on the same terms, as respects tonnage or navigation duties, as American vessels, with the produce or manufac-

Equalization of tonnage or navigation dues.

[1] Compiled from General Regulations of the Treasury Department, and from other official authorities.

[2] The treaty between the United States and Denmark expired on the 14th day of April, 1856.

[3] By decree of December 18, 1854, equality with the national flag is offered by the government of the Two Sicilies to the vessels of such nations as reciprocate the favor. This equality applies to the direct and indirect trade.

res of their own or any other country: Bolivia, osta Rica, Mexico, Muscat, Ottoman Empire, Portgal, and Uruguay.[1]

643. In respect to the commercial relations between the United States and Great Britain, since the peal of the navigation laws of the latter nation in 349, (carried into effect on and after the 1st day of nuary, 1850,[2]) the Treasury Department issued, nder date of October 15, 1849, the following genel instructions, for the information of the officers of ie customs, and others interested: Commercial relations of United States and Great Britain.

First. In consequence of the alterations of the ritish navigation laws, above referred to, British essels, from British or other foreign ports, will, nder our existing laws,) after the first of January ext, be allowed to enter in our ports with cargoes the growth, manufacture, or production of any art of the world.

Second. Such vessels and their cargoes will be lmitted, from and after the date before mentioned, n the same terms as to duties, imports, and charges, vessels of the United States and their cargoes.

Vessels of the United States are permitted to nter the ports of Simoda and Hakodade, in Japan, here they can be supplied with wood, water, proisions, and coal, and other articles their necessities ay require; but these articles can be procured nly through the agency of Japanese officers apointed for that purpose, and in no other manner. Japan.

[1] By a law of Uruguay, of June 17, 1854, similar privileges are granted to ssels of the United States.

[2] By virtue of this act (12 and 13 Victoria, chap. 29) the comprehensive rinciple was established of admitting into Great Britain, or into any British ossession, goods of any sort, in a ship of any country, from any part of the orld.

If there be any other sort of goods wanted, or any business which shall require to be arranged, there shall be careful deliberation between the parties in order to settle such matters.

Equality in direct trade.

644. Vessels belonging to the following nations are admitted into ports of the United States on the same terms as American vessels, only when laden with the produce or manufactures of the country to which such vessels respectively belong: Hawaiian Islands, Portugal and her colonies, and the Pontifical States

French vessels.

645. French vessels enjoy an equality as to import duties and charges in the direct trade, the origin of cargoes being attested by consular certificate, but they are subject to a tonnage duty of ninety-four cents per ton of the vessel's passport.

French vessels from Martinique and Guadaloupe.

French vessels laden with the produce of Martinique and Guadaloupe are admitted on equal terms with American vessels, as to duty and tonnage, when direct from these islands in ballast or with articles the growth or manufacture of either of said islands, so long as the French ordinance of February 5, 1826, shall continue in force.

Cayenne.

French vessels from Cayenne, in French Guiana, are admitted with the same privileges granted above, under the act of May 9, 1828, to vessels from Martinique and Guadaloupe.

St. Pierre and Miquelon.

French vessels from St. Pierre and Miquelon, admitted on the same footing as vessels from Martinique and Guadaloupe.

Portuguese.

Vessels of Portugal, when bringing articles the growth, production, or manufacture of countries other than Portugal or her dependencies, are not

liable to the penalties provided by the navigation act of 1st March, 1817, the articles so brought being entitled to entry on the payment of the appropriate rates of duty; but the exemption from duty of tea and coffee in certain cases, as provided in schedule I of the tariff act of 1846, does not extend to cases of the importation of those articles in vessels of Portugal.

Vessels subject to tonnage and discriminating duties.

646. Vessels belonging to the following nations, having no reciprocal treaties with the United States, are subject to tonnage and discriminating duty on their cargoes as foreign vessels, whether laden with the produce or manufactures of their own or any other country: Hayti, and Spain.

Hayti.

Haytien vessels are subject to a duty of one dollar per ton.[1]

Spanish vessels from Spain.

Spanish vessels from the ports of Spain or her European islands are liable to a tonnage duty of five cents per ton, that being the rate of duty charged on vessels of the United States arriving in such Spanish ports, and ten per cent. "additional duty" on the cargo, as provided in the 11th section of the tariff act of 1842.

Spanish vessels from Cuba and Porto Rico.

Spanish vessels from Cuba, in ballast, or laden with molasses, are not subject to tonnage duty, (but are subject to ten per cent. additional duty on the cargo,) provided they have a consular certificate that no tonnage duty is exacted there on American vessels in ballast, or when laden with molasses.

Spanish vessels from Cuba and Porto Rico, (except as above,) are subject to tonnage duty, from Cuba, $1.50 per ton; Porto Rico, 87½ cents per ton,

1 The differential duty of ten per cent. levied in Hayti upon the vessels of non-treaty nations was abolished as to the United States, May 9, 1850, (vide Senate Ex. Doc., No. 52, 32d Congress, 2d session.)

and ten per cent. additional duty; also a discriminating duty equal to the export duty to which an American vessel would have been liable in those islands over a Spanish vessel; and before clearing, directly or indirectly, for either of those islands, such further duty as an American vessel on a similar cargo would be liable to pay more than a Spanish vessel in the same ports. The laws of 13th July, 1832, and 30th June, 1834, contemplate and require Spanish vessels coming from any port or place in the islands of Cuba or Porto Rico, to pay in the ports of the United States the same rate of duty on tonnage that shall be levied on American vessels at the port in the said islands from whence such Spanish vessels shall have last departed; and likewise such further tonnage duty as shall be equivalent to the amount of discriminating duty that would have been imposed on the cargoes imported in the same vessels, respectively, if the same had been exported from the port of Havana in American bottoms. It consequently follows, that where no tonnage or discriminating duty on the cargoes of American vessels entering and departing from ports or places in the island of Cuba is imposed and collected thereat, Spanish vessels coming from such ports or places are similarly treated, as regards tonnage duty, in the ports of the United States.

Canary Islands.

647. The ports of Santa Cruz de Teneriffe, Orotana, Ciudad Real de los Palmas, Aneciffe de Langarole, Puerto de Cabras, and San Sebastian, in the Canary Islands, having been declared free by royal decree, proclaimed on the 10th October, 1852, and vessels of the United States and their cargoes arriving in

said ports being thus placed on the same footing with those of Spain, no discriminating duty is levied on Spanish vessels and their cargoes arriving from those ports, in the ports of the United States, provided that on every such arrival the required consular certificate be filed with the collector of the port.

American vessels entering Cuba or Porto Rico.

648. It has been ascertained that American vessels entering ports in the islands of Cuba and Porto Rico, in ballast, are not subjected to the payment of any tonnage duty whatever; and that American vessels entering the ports in the islands of Cuba and Porto Rico, with cargoes of any description of merchandise whatsoever, are exempted from any charge of tonnage duty, if such vessels export or convey therefrom cargoes of molasses taken in at said ports. Exemption, therefore, from the liability to tonnage duty of Spanish vessels coming from ports in the islands of Cuba and Porto Rico is extended to such vessels arriving in ports of the United States, either in ballast or laden with molasses taken in at any of the said ports, together with such quantity of fresh fruit, the production of said islands, as may be deemed by the collector and naval officer, under the provisions of the 45th section of the act of 2d March, 1799, to be admissible as surplus stores: provided, the said vessels depart from the United States in ballast, or with their cargoes of molasses, or cargoes of the staple productions of the United States, under the restrictions contained in the 3d section of the act of 30th June, 1834. And provided further, that the master of such vessel produce to the collector, at the time of entry, a certificate from the chief officer of the customs at the port in the islands of Cuba

Consular certificate.

or Porto Rico from which the vessel last departed, certified by the American consul, showing the continuance in said islands of the exemption from tonnage duties of American vessels, under the circumstances above stated: likewise, what discriminating or other duty, if any, is charged on such vessels when departing from said port with cargoes of molasses.

Cargoes of Spanish vessels.

649. The cargoes of such Spanish vessels, on entry, are, of course, subjected to the duties levied on the article by the tariff act of 30th July, 1846, together with the additional duty imposed by the 11th section of the tariff act of 30th August, 1842.

Bonds required.

650. Where Spanish vessels are about to depart from a port of the United States with any goods, wares, or merchandise, for any destination other than some port or place in the islands of Cuba or Porto Rico, the bond and security required by the 3d section of the act of 30th June, 1834, are exacted in all such cases, before allowing clearance or departure of the vessels.

Spanish vessels from Spain.

651. A Spanish vessel leaving a port of Spain for a port in Cuba, but, not finding there a satisfactory market, proceeding, without breaking bulk or taking in any goods at said island, to a port in the United States, would not on entry be subjected to any other or higher duties of tonnage or imposts than she would be if direct from a port of Spain to the United States; the voyage, under the circumstances, being regarded as continuous.

Danish vessels.

652. Danish vessels arriving from the Danish islands of Santa Cruz and St. Thomas are not chargeable with tonnage duties in the ports of the United States; the vessels of Denmark and the United States

being placed on the same footing, in that respect, under the provisions of the act of Congress of the 31st May, 1830, and the treaty with Denmark of the 26th April, 1826.

653. Swedish vessels from the island of St. Bartholomew are placed on an equal footing with those of the United States, by the treaty with Sweden and Norway of July 4, 1827. Swedish vessels

654. French vessels from the French islands of Martinique, Guadaloupe, St. Pierre, Miquelon, and Cayenne in French Guiana, were exempted from tonnage duty under the special act of Congress of the 9th May, 1828, and, as to St. Pierre and Miquelon, by the proclamation of the President of the United States, dated the 20th of April, 1847, consequent on the removal by France of the restrictions on vessels of the United States, in said islands. French vessels from French islands.

655. A French vessel bringing fish from the banks of the British colony of Newfoundland, being the product of the waters of that colony, is not exempt from tonnage duties; the act of the 3d of March, 1845, exempts from such duties only French vessels coming directly from the islands of Miquelon and St. Pierre, either in ballast or laden with articles the growth or manufacture of either of said islands, and there is no other provision of law or treaty authorizing an exemption. From Newfoundland.

656. A French vessel arriving in the United States, with a cargo of fish from the islands "Les Petites Oies," is chargeable with tonnage duties; the islands "Les Petites Oies" not being appurtenant to either Miquelon or St. Pierre, but belonging to the colony of Newfoundland, are not within the provi- From Les Petites Oies.

sions of the act of 3d March, 1845, which exempts from tonnage duties French vessels arriving direct from St. Pierre and Miquelon with productions or manufactures of those islands; nor are they brought within the provisions of that law by the fact that, by a treaty between France and England, Les Petites Oies are constituted a French fishing station.

Foreign vessels.

657. Foreign vessels from ports prohibited to American vessels are required to pay tonnage duty of two dollars per ton, light money fifty cents per ton, and ten per cent. additional duty on the cargo.

Repeal of British navigation laws; subsequent regulations.

658. Since the repeal of the navigation laws of Great Britain, referred to in a preceding section, the commercial legislation and port regulations of several countries in Europe have been characterized by a spirit of liberality not recognised in the treaties existing between the United States and such countries, respectively; and a similar progressive spirit is observed in the more recent commercial legislation of many of the South American governments. The United States has, since the very commencement of its existence as an independent government, ever been willing and ready to reciprocate, to the fullest extent and in the most liberal spirit, all privileges and favors, whether of navigation or commerce, extended to its flag by foreign nations. To this end, and in order to anticipate the usually dilatory process of treaty negotiations, the President of the United States is vested, by act of Congress, with authority to issue his proclamation, granting to the vessels of foreign nations equal and similar privileges and favors to those extended to the vessels of the United States in the ports of such foreign nations,

Policy of United States reciprocal.

on receiving official notice thereof from the accredited agents of such governments. The following is the law referred to:

Act of May 24, 1824.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, upon satisfactory evidence being given to the President of the United States, by the government of any foreign nation, that no discriminating duties of tonnage or impost are imposed or levied in the ports of the said nation, upon vessels wholly belonging to citizens of the United States, or upon the produce, manufactures, or merchandise, imported in the same from the United States, or from any foreign country, the President is hereby authorized to issue his proclamation, declaring that the foreign discriminating duties of tonnage and impost, within the United States, are, and shall be, suspended and discontinued, so far as respects the vessels of the said foreign nation, and the produce, manufactures, or merchandise imported into the United States in the same, from the said foreign nation, or from any other foreign country: the said suspension to take effect from the time of such notification being given to the President of the United States, and to continue so long as the reciprocal exemption of vessels, belonging to citizens of the United States, and their cargoes, as aforesaid, shall be continued, and no longer.[1]

When a discriminating duty cannot be refunded.

659. It has been decided that a discriminating duty exacted on a Spanish vessel clearing from a port of the United States for Cuba or Porto Rico, under the 2d section of the act of 30th June, 1834, "concerning tonnage duty on Spanish vessels," cannot be refunded, although the vessel may never arrive at her destination, being wrecked on the voyage. By the express terms of the law, "the duties accrued on the clearing and departing" of the

[1] Statutes at Large, vol. V, p. 308.

vessel, whatever accidents or disasters may attend her passage.

Discriminating duty defined.

660. The discriminating duty of ten per cent., under the 11th section of the tariff law of 1842, is an additional duty of ten per cent. on the rate of legal duties chargeable on the imports, and not a duty of ten per cent. on the value of the goods; as, for example, an import chargeable with a regular duty of twenty per cent., and also with the discriminating duty of ten per cent., under the 11th section of tariff act of 1842, would become chargeable with a duty twenty-two per cent., and not thirty per cent.

Duty on Dominican vessels.

661. A Dominican vessel arriving from a port in the Dominican republic is liable to a tonnage duty of one dollar per ton, that being the duty imposed on the tonnage of vessels of the United States arriving in said republic; but the cargo is not liable to a discriminating duty of ten per cent., no such duty being levied by the Dominican republic on the cargoes of United States vessels arriving in the ports of that republic.

Brazilian vessels.

662. There exists no commercial treaty between the United States and Brazil; but Brazilian vessels, with their cargoes, are admitted on an equal footing with vessels of the United States as respects tonnage and import duties, and all other charges of whatsoever kind or denomination, by virtue of the proclamation of the President of the United States of November 4, 1847, issued in pursuance of the act of Congress of May 24, 1824, recited at length in section 658.

Tea or coffee.

663. Tea or coffee, shipped from the country of production, but not for a distinct and specific desti-

nation to persons or places in the United States, and transhipped at a foreign intermediate port for the United States, is, on importation, liable to a duty of twenty per cent.

664. But if originally shipped in national vessels, or vessels placed on that footing by treaty, for a specific party and place in the United States, from the country of production, and so imported into the United States, these articles are entitled to free entry, although a mere transhipment may have taken place at a foreign intermediate port.

When entitled to free entry.

665. Tea or coffee, entitled to free entry when originally imported into the United States, afterwards exported to a foreign port and brought back as part of the returning cargo of the exporting vessel, not having been landed abroad, is entitled to free entry on its reimportation under these circumstances.

When imported direct.

666. Tea and coffee, when imported direct from the place of their growth or production, in American vessels, or in foreign vessels so entitled by reciprocal treaties, are exempt from duty.

From the Netherlands.

667. Coffee, the product of a possession of the Netherlands, imported into the United States in a vessel of the Netherlands direct from such possessions, or from the Netherlands, is admitted free of duty, under schedule I of the tariff law of 1846, and the first article of the treaty between the United States and the Netherlands of August 26, 1852.

In Prussian or Hanseatic vessels.

668. Tea or coffee imported direct from the place of its production, in vessels of the kingdom of Prussia, and of the Hanseatic republics of Hamburg, Bremen, and Lubec, is placed on the same footing with that imported in American or Dutch vessels.

In Brazilian vessels.

669. Tea or coffee, the production of Brazil, imported direct from that country in Brazilian vessels, is exempt from duty under schedule I of the tariff act of 1846.

From China via Singapore.

670. Tea or coffee, the production of China, imported via Singapore, is admitted to free entry, if it be satisfactorily shown at the time of entry that it was laden on board the American importing vessel from Chinese boats or junks in Chinese waters, intended in good faith to be conveyed therein direct to a specified port of the United States, as its ultimate destination.

From Malabar.

671. Coffee of the growth of the coast of Malabar, or island of Ceylon, being the possession of Great Britain in India, is entitled to free entry if imported from Calcutta, or other ports of the British East Indies, in vessels of the United States, or in vessels put on the footing of national vessels by reciprocal treaties.

Molasses or melado.

672. Concentrated molasses, or melado, is understood and held to be a partially manufactured sugar, the molasses having undergone several boilings, and requiring but a slight additional process to bring it to the state of a sugar. On this article, when imported from Cuba or Porto Rico, the usual duty levied by the authorities of those islands on exports is added as a dutiable charge to the general market value of the article, to make up the dutiable value on its importation into the United States.

Continuous voyage.

673. An article entitled to free entry by law, only when imported from the country of production, if originally shipped from such country in good faith for a specific destination in the United States, does

not lose its right to free entry, although the vessel may have touched on the voyage at a port in another country, the voyage being continuous; but if no satisfactory proof of the original destination for the United States is produced, the article must be treated as coming from a country not of production, and chargeable with duty.

Currencies.

674. Consular officers are instructed that the following values have been established by the laws of the United States for certain foreign currencies, viz: Dollars of Mexico, Peru, Chili, and Central America, one dollar; dollar, specie, of Denmark, one dollar and five cents; dollar, rix, or thaler, of Prussia and the Northern States of Germany, sixty-nine cents; dollar, rix, of Bremen, seventy-eight and three-fourths cents; dollar, specie, of Sweden and Norway, one dollar and six cents; ducat of Naples, eighty cents; franc of France and Belgium, eighteen and six-tenths cents; florin of Netherlands, forty cents; florin of Austria, forty-eight and one-half cents; florin of Southern States of Germany, forty cents; guilder of Netherlands, forty cents; lira of the Lombardo Venitian Kingdom, sixteen cents; lira of Tuscany, sixteen cents; lira of Sardinia, eighteen and six-tenths cents; livre tournoise of France, eighteen and one-half cents; livre of Leghorn, sixteen cents; milrea of Portugal, one dollar and twelve cents; milrea of Azores, eighty-three and one-third cents; marc banco of Hamburg, thirty-five cents; ounce of Sicily, two dollars and forty cents; pound sterling of Great Britain, four dollars and eighty-four cents; pound sterling of British Provinces of Nova Scotia, New Brunswick, Newfoundland, and Canada, four dollars;

pagoda of India, one dollar and eighty-four cents; real vellon of Spain, five cents; real plate of Spain, ten cents; ruble, silver, of Russia, seventy-five cents; rupee, company, forty-four and one-half cents; rupee of British India, forty-four and one-half cents; tael of China, one dollar and forty-eight cents.

Consular certificates of currency.

675. Invoices of merchandise made out in the depreciated currencies of Austria, Chile, Boliva, Peru, Porto Rico, and Nova Scotia, with certificates of United States consuls annexed, will be received by the collectors of the United States.

Currency of Nova Scotia.

676. The depreciated pound sterling of Nova Scotia will be taken, in computation at the custom-house of duties in the case of invoices of merchandise from that province made out in that depreciated currency, at three dollars and eighty-four cents, as compared with the silver currency of the United States, provided such depreciation, at the date of exportation, is certified by the United States consul at the port of shipment.

Sweden and Norway.

677. The value of the specie dollar of Sweden and Norway having been fixed by an act of Congress of the 22d May, 1846, at one hundred and six cents United States currency, and the rix dollar banco of Sweden and Norway, being a component part of their specie dollar, and in the invariable proportion of two and one-third to one, and consequently equal to thirty-nine and three-fourths cents United States currency, the rix dollar banco of Sweden and Norway is therefore taken, in computations at the custom-houses, at the rate of thirty-nine and three-fourths cents United States currency, and no consular currency certificate will be required, unless the currency should be depreciated.

678. The value of the Austrian silver florin is fixed by the laws of the United States, and the Austrian paper florin is usually depreciated in comparison with it. Assuming it to be, for example, depreciated thirty-eight per cent., the computation will be made by collectors by proportion, to wit: as 138 : 100 so is the amount of paper florins stated in the invoice to the value in silver florins. Of course, the consular certificate, showing the rate of depreciation, must be produced in such cases. Austrian silver florin.

679. The certificate of the United States consul, showing the value of the currency of the country from which the merchandise is imported, and in which the invoice is made out, in United States or Spanish silver dollars, must be required in every case in which the value of such foreign currency is not fixed by the laws of the United States. And in case the foreign currency in which the invoice is made out, whether its value is fixed by the laws of the United States or not, is depreciated, the certificate of the United States consul, stating the rate of depreciation, must be produced on the entry, and the officers of the customs are governed by such certificate in computing the foreign market value of the merchandise. Currency certificate.

680. Consular officers are informed that the courtesy between the United States and foreign nations, in mutually exempting from duty, articles imported by certain of their public officers resident abroad, does not extend beyond ministers or chargés d'affaires, representing their respective governments, and clothed with diplomatic powers and privileges, and does not comprehend attachés or persons belonging to the minister's suite; nor consular officers. Officers entitled to free entry of goods.

Bond for the return of seamen.

681. Under the provisions of the act of the 27th May, 1848, extending privileges to American vessels, bound from one port to another in the United States, touching at a foreign port for certain purposes, a bond for the return of the seamen and crew list, prescribed by law in cases of vessels bound on a foreign voyage, is required, and the seamen must all be accounted for.

Unregistered American vessels subject to tonnage duty.

682. American vessels, owned by Americans or others, without register, are subject to a tonnage duty of one dollar per ton, and ten per cent. additional duty on the cargo, as foreign vessels.

American-built vessels subject to tonnage duty

683. American-built vessels, owned wholly or in part by foreigners, are subject to tonnage duty of thirty cents per ton, and ten per cent. additional duty on cargo, unless exempt by treaty.

684. American vessels, on arrival from foreign ports, are subject to a tonnage duty of fifty cents per ton, unless the officers and two-thirds of the crew for the whole voyage are American citizens.

Consular certificate does not exempt an American vessel from tonnage duty.

685. The discharge of seamen from an American vessel, although by mutual consent, certified by a consul, will not exempt the vessel from the payment of tonnage duty incurred as above. The only exemption provided by law is in cases of sickness, death, desertion, or being made prisoners of war; which must be certified by an American consul.

CHAPTER XXXV.

EXTERRITORIAL AND OTHER PRIVILEGES OF CONSULS.[1]

When diplomatic duties may be discharged by consular officers.

686. The United States may, with consent of the government of another country, superadd to the regular duties therein of consul, any of those of a minister. There are two great classes of cases in which this fact exists, and might well be systematized, or at least more explicitly recognised, in consular stipulations with foreign governments.

Consular privileges in colonial or other dependencies of foreign States.

687. One is, that of the transmarine possessions of sundry of the states of Europe. Here, many cogent reasons dictate that the concession should be granted to our consuls, by such states, of the right to address the colonial or provincial governor. There is nothing in the law of nations to prevent this; it is convenient for all parties; it is a consular right exercised by treaty in the great pashalics of the Turkish empire. The United States have recently made provision to the same effect in treaty with a Christian power, namely, the Netherlands;[2] and that government having thus wisely relinquished its long subsisting scruples on this point, we may reasonably expect similar liberality in future commercial negotiations with other countries of Europe.

Consular duties where there is no diplomatic

688. The other class of cases of this nature is that of a consul residing near a metropolitan government

[1] The remarks contained in this chapter are extracted from an opinion of the Attorney General, dated July 14, 1855.

[2] Statutes at Large, vol. X, p. 1150.

representatives of the United States.

where there is no minister, either because of temporary cessation, or because inducements have not existed for the interchange of diplomatic representatives between such government and the United States. In this case it becomes the office, perhaps it may be said the right, of the consul to place himself, *with the permission of his own government*, in direct communication with the political authority of such government. Here, as in the other case, the fact occurs, and is of common convenience; it is not inconsistent with public law; and so far as regards the United States, it has example in treaties,—for instance, in our last consular convention with France.

Consular duties in Germany.

It is a thing of manifest necessity as between the United States and some of the countries of Germany, with which our relations are entirely amicable, without calling for permanent diplomatic representation. The German Bund, though in some features resembling our own federal republic, yet differs essentially in this, that, in the former, the federal authority, in matters of peace and war, acts on states, not individuals, and of course each state retains the power of foreign representation and negotiation. Hence, if we do not see cause to interchange ministers, we may yet well reciprocally enlarge the consular functions, in our relations with such states as Bavaria, Saxony, Wurtemburg, Hanover, the Hessen, the Mechlenburgs, or any other of the members of the Bund.

Derivation of exterritorial privileges by consuls.

689. Meanwhile, it would not in either of these classes of cases follow, because a consul of the United States in Bavaria, or one of Bavaria in the United States, may be admitted to address the govern-

ment, that therefore he becomes a diplomatic personage, with international rights as such, and among them that of exterritoriality. If his commission be that of consul only, if his public recognition be an *exequatur*, the foreign consul is subject to the local law in the United States; and our own consul in the foreign country, if invested in any case with quasi-exterritorial rights, does not derive these from the law of nations, but only from the special concession, by general law or otherwise, of the particular foreign government. If, indeed, the United States see fit, in any case, to confer the function of chargé d'affaires on their consul, either with or without limitation of time, as they may lawfully do, that is, to superimpose the office of minister on that of consul, then he has a double political capacity, and, though invested with full diplomatic privilege, yet becomes so invested as chargé d'affaires, not as consul; and the fact of such casual duplication of function does not change the legal *status* of consuls, whether they be regarded through the eye of the law of nations, or that of the United States.

Exterritorial privileges of consuls in Pagan and Mohammedan countries.

690. It has been observed, that "in Egypt, Tunis, Tripoli, China, the islands of the Pacific, the consuls enjoy all the diplomatic privileges. The motive is not only in the difference of law and religion with ours, but also in the absence of other diplomatic representatives."[1] This remark requires qualification. In the case of China and Turkey, for instance, our consuls have not, *quâ* consuls, any "*diplomatic* privileges," except such as they might have in France during the absence of a minister; such *exterritorial*,

[1] Despatches of Mr. S. Ricker, United States consul at Frankfort-on-the-Mayn, December 23, 1854, and January 3, 1855.

not diplomatic, privileges, as they really enjoy, they enjoy, not because they are consuls, nor because of the absence of proper diplomatic representatives in those countries, for we have them,—but because they are citizens of the United States. And the true explanation of the diplomatic rights appertaining to consuls in the Mohammedan states, whether independent ones, like Morocco and Muscat, or subject to the suzerainty of the Porte, like Tripoli, Tunis, and Egypt, and so of the Pacific or Indian islands, is, that they are not Christians, and are not admitted to a full community of international law, public or private, with us, the nations of Christendom.

Institution of the consular office

691. It might be demonstrated historically, what in this place it will suffice to affirm, that the institution of consuls, in their present capacity of international agents, originated in the mere fact of differences in law and religion at that period of modern Europe in which it was customary for distinct nationalities, coexisting under the same general political head, and even in the same city, to maintain each a distinct municipal government.

Consuls in the Levant.

692. Such municipal colonies, organized by the Latin Christians, and especially by those of the Italian republics in the Levant, were administered each by its *consuls*, that is, its proper municipal magistrates of the well known municipal denomination of ancient Italy. Their commercial relation to the business of their countrymen was a mere incident of their general municipal authority. Such, also, at the outset, was the nature of their political relation to other coexisting nationalities around them in the same country, and to that country's own supreme political or military power.

693. The consuls of Christian states, in the countries not Christian, still retain unimpaired, and habitually exercise, their primitive functions of municipal magistrates for their countrymen, their commercial or international capacity in those countries being but a part of their general capacity as the delegated administrative and judicial agents of their nations. Consular functions in countries not Christian.

694. This condition of things came to be permanent in the Levant, that is, Greek Europe and its dependencies, by reason of the tide of Arabic and Tartar conquest having overflowed so large a part of the Eastern empire, and established the Mohammedan religion there. But the result was different in Latin Europe, because the modern nations, formed in this quarter out of the broken fragments of the Western empire, being Christian, and thus deriving their religion and their civilization from the same fountainhead of Rome, settled into something of approximation to one great political community, under the influences, potential when combined, of the military power of the Frankish or Germanic Emperors, and the moral power of the Papal See. Thus it was that the mass of legal ideas, which we now call the law of nations, came to exist and have authority. It is, in its origin at least, the system of public law of Latin or Western Europe. Origin of the law of nations.

695. This imperfect political unity of Western Europe was obstructed at first by the antagonism of the Celto-Romanic and the Germanic races, and was threatened with complete dissolution when that original antagonism reappeared in the separation of some of the Germanic populations from the Papal See, under the popularly assumed religious title of Protestants. But after thirty continuous years of re- Establishment of an approximate unity of public law.

ciprocal devastation and slaughter, the states of the old and new faith concluded a truce at least, if not a peace, and agreed, while acquiescing in the fact of religious difference, to maintain approximate unity of public law, and thus, by subordinating the religious idea to the legal one, to live together in some sort, as they have continued to do, with only occasional spasms of fanatical intolerance breaking out into civil or foreign war. At a late period, Russia, though of Greek faith, came into the European system of public law, with the less difficulty, indeed, for the reason that Latin Europe and Greek Europe alike nourished he legal traditions of the Roman empire, though these be derived in the former case from Rome, and in the latter from Constantinople.

Change in the nature of the consular office among Christian nations.

696. Thus, by the combination of Romanic law and Christian faith it is that we have come to have a common public law, under whose gradual operation claims of private exterritoriality soon fell into desuetude among the governments of Christendom; Italians in England, and Englishmen in Italy, at length submitted to the local law; foreign colonial nationalities finally ceased to exist of right; their consuls proceeded to sink from the condition of municipal functionaries into that of mere commercial or semi-diplomatic ones; and thus, in process of time, by traditional usage, by positive provisions of local law, and by treaty stipulations, the existing legal character, with its limited rights, was fixed on the foreign consuls mutually accredited in the countries of Christian Europe and America.

Exterritorial rights retained in Mohammedan states.

697. In our relations with nations out of the pale of Christendom, we retain for our own citizens and consuls, though we cannot concede to theirs, the

rights of exterritoriality. Religion is the chief representative sign, and it is an element of the question of public law. But the critical fact is the difference of law. The legislation of Mohammed, for instance, is inseparable from his religion. We cannot submit to one without also undergoing the other. The same legal incompatibility exists, for one reason or another, between us and the unchristian states not Mohammedan.

Religion the sign of the public law.

698. Whereas, Christendom, on the other hand, in all its subdivisions of race, nationality, and religion, is the common heir of the political ideas, and especially the legislation, of the Roman empire; for the Institutes and Pandects themselves, though comprising the sum of the legal science of Rome, were compiled and promulgated at Constantinople, and constitute the broad foundation of the jurisprudence, public and private, of the whole of Christendom.

Institutes and Pandects.

699. When the countries now Mohammedan shall be resubjected to the doctrines of the Roman law, then can they be admitted to the same reciprocal community of private rights with us, which prevails in Christian Europe and America. Until that event happens, Turkey, and other Moslem states in Africa or Asia, may, like China or Japan, enter into the sphere of our public law in the relation of government to government, but not in the relation of government to men. That full interchange of international rights is admissible only among the nations which have unity of legal thought, in being governed by, or constituted out of, the once dissevered, but since then partially reunited, constituents of the Græco-Roman empire.

Unity in Christendom.

CHAPTER XXXVI.

TARIFF OF FEES OF UNITED STATES CONSULAR OFFICERS.

700. The following is the rate or tariff of fees prescribed by the President to be charged by all consular officers for the services herein specified, which "shall be regarded as official services," and the fees therefor collected in American or Spanish dollars, or their equivalent.

701. At the expiration of each quarter, the statements of fees must be rendered pursuant to Forms Nos. 8, 33, 44, and 45, of the printed Instructions, by all consular officers entitled to salaries residing at seaports, and pursuant to Forms Nos. 9 and 33, at inland places, to the Secretary of the Treasury, and the amount thereof held subject to his draft or other directions. If the consular officers are not entitled to salaries, the returns must be made to the Secretary of State.

Receiving and delivering ship's papers.

1. For receiving and delivering ship's register and papers, including consular certificates as prescribed in forms Nos. 38 and 39, half a cent on every ton, registered measurement of the vessel for which the service is performed.

Discharging or shipping seamen or mariners.

2. For every seaman, from one to ten, who may be discharged or shipped, including the certificates therefor attached to crew list and shipping articles, to be paid by the master of the vessel, fifty cents; but no

additional charge shall be made for any number of seamen exceeding ten, who may be discharged from or shipped between the date of the arrival and departure of the vessel.

Protests, passports, &c.

3. For noting marine protest	$1.00
4. For extending marine protest	2.00
And if it exceed two hundred words, for every additional one hundred words	1.00
5. For issuing warrant of survey on vessels, hatches, cargo, provisions, and stores, or either	1.00
6. For a passport, including seal	1.00
7. For visaing a passport	1.00
8. For preparing agreement of master to give increased wages to seamen, attested under seal.	1.00
9. For preparing any other official document or instrument of writing, not herein named or enumerated, if under one hundred words	1.00
If exceeding one hundred words, for every additional hundred words	.50

For the following certificates, viz:

10. Of the deposit of a ship's register and papers, when required by custom-house authorities..	.25
11. In cases of vessels deviating from the voyage..	.50
12. When ship's register is retained *entire* in the consulate	.25
13. For master to take home destitute American seamen	no fee.
14. Of conduct of crew on board, in cases of refusal of duty and in cases of imprisonment, &c...	.25
15. Given to master at his own request, (for example, see Form No. 48)	.50
16. To a seaman, of his discharge	no fee.

17. Of appointment of new master, including oath of master	$1.00
18. Of the ownership of a vessel	.50
19. Of decision and award, in cases of protests against masters, passengers, or crew, (for example, see Form No. 49)	2.00
20. Of roll or list of crew, when required by the captain or authorities of the port	.50
21. To bill of health	.50
22. To shipping articles	.50
23. Of cancelling ship's register	.50
24. To debenture certificate, including oaths of master and mate	1.25
25. To invoice, including oath	2.00
26. To currency	.50
27. Of sea letter	2.00
28. Of endorsement of bottomry on ship's register	.50
29. Of ditto on payment of bottomry on ship's register	.50
30. Of ditto of new ownership on ship's register.	.50

Acknowledgments.

31. Of the master to bottomry bond	1.00
32. Of the merchant to assignment of bottomry bond	1.00
33. Of the vendor to a bill of sale of vessel	1.00
34. Of the master to a mortgage or mortgage bill of sale of vessel	1.00
35. Of the master to an order for payment of seamen's wages or voyages, at home, including making up order, if required	.50
36. Of one or more persons to a deed or instrument of writing	2.00
37. Of one or more persons to a power of attorney	2.00

Declarations and oaths.

38.	Of declaration and oath of master to one or more desertions, including oaths, attached to crew list and shipping articles, each.....	$0.50
39.	To one or more deaths or losses of seamen overboard at sea, including oaths, attached to crew list and shipping articles, each.....	.50
40.	To not being able to procure two-thirds of a crew of protected American seamen	.50
41.	To ship's inventories or stores.....	.50
42.	To the correctness of log book.....	.50
43.	To ship's bills and vouchers for disbursements and repairs	.50

Authenticating copies of papers.

44.	Of marine note of protest.....	1.00
45.	Of extended protest.....	2.00
46.	Of call, warrant, and report of survey on vessel, hatches, cargo, provisions, and stores, or either, (for example, see Form No. 50).....	1.00
47.	Of inventories and letters, or either, of masters.....	1.00
48.	Of account of sales of vessel, cargo, provisions and stores, or either.....	1.00
49.	Of advertisement for funds on bottomry.....	1.00
50.	Of advertisement of sale of vessel or cargo, provisions or stores..... ...	1.00

Authenticating signatures.

51.	To reports of survey on vessel or cargo, provisions or stores.....	1.00
52.	To estimate of repairs of vessel.....	1.00
53.	To (auctioneer's) account of sales of vessel or cargo, provisions or stores.....	1.00
54.	To average bonds.....	2.00
55.	Of governors, judges, notaries public, custom-house and other officers.....	2.00

56. Of merchants and individuals..... $3.00
57. For any other consular certificates or services of like character not herein named or enumerated ..... .50

Consuls' orders and letters.

58. To send seamen to hospital..... no fee.
59. To send seamen to prison ..... .50
60. To release seamen from prison..... .50
61. To authorities or captain of the port, in cases of sinking vessels, (for example, see Form No. 51)..... .50
62. Requesting the arrest of seamen..... .50
63. For any other letter or order of like character. .50

Filing documents in consulate.

64. Calls of survey on vessel, hatches, cargoes, provisions and stores, or either..... .25
65. Warrants of survey on vessels, hatches, cargoes, provisions and stores, or either..... .25
66. Reports of survey on vessels, hatches, cargoes, provisions and stores, or either..... .25
67. Estimate of repairs of vessel..... .25
68. Consul's certificate to advertisement for funds on bottomry..... .25
69. To advertisement of sale of vessel, cargo, provisions and stores, or either..... .25
70. Inventories of vessels, cargo, provisions and stores, or either..... .25
71. Letter of master notifying consul of sale of vessel, cargo, provisions and stores, or either... .25
72. Of master notifying auctioneer of sale of vessel, cargo, provisions and stores, or either... .25
73. Accounts of sale of vessel, cargo, provision and stores, or either..... .25
74. For filing any other document prepared in or out of the consulate..... .25

Recording documents.

75. Calls of survey on vessel, hatches, cargo, provisions and stores, or either; warrants and reports of ditto, ditto; estimates of repairs; certificates of consuls to advertisements for funds on bottomry, and of sale of vessel; inventories of vessel, cargo, provisions, and stores; letter of master to consul notifying sale of vessel, cargo, provisions and stores, or either; letter of master to auctioneer, and account of sales of vessel, cargo, provisions and stores, or either, for every 100 words... $0.20

(As the original documents are required to be filed in the consulate it will not be necessary to record them. Should it ever become necessary, however, to deliver up the originals, they must be recorded before delivery, the party receiving the same paying the record fee as above mentioned.)

76. Order and consul's certificate to pay seamen's wages or voyages, at home..... .25

77. Certificate given to master at his own request, when required. . ..... .25

78. Appointment of new master..... .25

79. Application of a citizen of the United States for a sea letter ..... .25

80. Sea letter, for every one hundred words..... .20

81. Bill of sale, when required, for every one hundred words..... .20

82. Consul's letter to captain of port, or authorities, in cases of sinking vessels..... .25

83. Consuls' certificates to masters taking home destitute American seamen..... no fee.

84. Protests of masters and others, other than marine protests, for every one hundred words..... .20

85. Average bonds, when required, for every one hundred words $0.20

86. Powers of attorney, when required, for every one hundred words..... .20

87. Any other document or instrument of writing not herein named or enumerated prepared in or out of the consulate, and required to be recorded, for every one hundred words..... .20

Estates of deceased American citizens.

88. For taking into possession the personal estate of any citizen who shall die within the limits of a consulate, inventorying, selling, and finally settling and preparing or transmitting, according to law, the balance due thereon, five per cent. on the gross amount of such estate. If part of such estate shall be delivered over before final settlement, two and one-half per cent. to be charged on the part so delivered over as is not in money, and five per cent. on the gross amount of the residue. If among the effects of the deceased are found certificates of foreign stocks, loans, or other property, two and one-half per cent on the amount thereof. No charge will be made for placing the official seal upon the personal property or effects of such deceased citizen, or for breaking or removing the seals, when required by the person or persons referred to in section 29 of the act of August 18, 1856.

Miscellaneous services.

89. For consul's seal and signature to clearance from custom-house authorities..... .50

90. For administering oaths, not herein before provided for, each..... .25

91. For consul's attendance at a shipwreck, or for the purpose of assisting a ship in distress, or of saving wrecked goods or property, over and above travelling expenses, a per diem of four dollars, whenever the consul's interposition is required by the parties interested....	$4.00
92. For attending an appraisement, where the goods or effects are under one thousand dollars in value	3.00
93. For attending valuation of goods of one thousand dollars and upwards in value, for every day's attendance during which the valuation continues.....	5.00
94. For attending sale of goods, if the purchase money be under one thousand dollars.....	3.00
95. For attending sale of goods, if the purchase money is one thousand dollars and upwards, for every day during which the sale continues.....	5.00
96. For attending sale of vessel, when required..	2.00

Fees for unofficial services, perquisites of the consular officers.

702. As the unofficial acts of a consular officer may be performed by a notary public, and as the compensation charged therefor is regarded as a perquisite of his office, the rate of such compensation may be determined either by agreement or the custom of the place, subject, however, to future instructions.

CHAPTER XXXVII.

ACTS OF CONGRESS, AND EXTRACTS THEREFROM, RELATING TO UNITED STATES CONSULAR OFFICERS.

704. For convenient reference by United States consular officers, a few of the more important laws, or extracts therefrom, relating to the duties of United States consuls, are here inserted.

Extracts from "An act concerning consuls and vice consuls," approved April 14, 1792. [1]

* * * * * * * *

Consular officers authorized to receive protests, &c.

SEC. 2. *Be it enacted, &c.*, That they [consular officers of the United States] shall have right, in the ports or places to which they are or may be severally appointed, of receiving the protests or declarations which such captains, masters, crews, passengers, and merchants, as are citizens of the United States, may respectively choose to make there; and also such as any foreigner may choose to make before them, relative to the personal interest of any citizens of the United States; and the copies of the said acts, duly authenticated by the said consuls or vice consuls, under the seal of their consulates, respectively, shall receive faith in law equally as their originals would in all courts in the United States. It shall be their duty, where the laws of the country permit, to take possession of the personal estate left by any citizen of the United States, other than seamen belonging to any ship or vessel, who shall die within their consulate, leaving there no legal representative, partner in trade, or trustee by him appointed to take care of his effects; they shall inventory the same with the assistance of two merchants of the United States, or, for want of them, of any others at their

Certificates to be received in courts of law.

Charge of personal estates.

Inventory to be taken.

[1] Statutes at Large, vol. I., p. 255. The first section of this act was repealed by the act approved July 7, 1798.

choice; shall collect the debts due to the deceased in the country where he died, and pay the debts due from his estate which he shall have there contracted; shall sell at auction, after reasonable public notice, such part of the estate as shall be of a perishable nature, and such further part, if any, as shall be necessary for the payment of his debts, and at the expiration of one year from his decease, the residue; and the balance of the estate they shall transmit to the Treasury of the United States, to be holden in trust for the legal claimants. But if, at any time before such transmission, the legal representative of the deceased shall appear and demand his effects in their hands, they shall deliver them up, being paid their fees, and shall cease their proceedings.

Collection debts.

Perishable articles to be sold.

Proceeds to be transmitted to the Treasury,

Representative of the deceased.

For the information of the representatives of the deceased, it shall be the duty of the consul or vice consul, authorized to proceed as aforesaid in the settlement of his estate, immediately to notify his death in one of the gazettes published in the consulate, and also to the Secretary of State, that the same may be notified in the State to which the deceased shall belong; and he shall also, as soon as may be, transmit to to the Secretary of State, an inventory of the effects of the deceased taken as before directed.

Deaths of citizens to be published.

Inventory to be sent to Secretary of State.

SEC. 3. *And be it further enacted*, That the said consuls and vice consuls, in cases where ships or vessels of the United States shall be stranded on the coasts of their consulates, respectively, shall, as far as the laws of the country will permit, take proper measures, as well for the purpose of saving the said ships or vessels, their cargoes and appurtenances, as for storing and securing the effects and merchandise saved, and for taking an inventory or inventories thereof; and the merchandise and effects saved, with the inventory or inventories thereof, taken as aforesaid, shall, after deducting therefrom the expense, be delivered to the owner or owners: *Provided*, That no consul or vice consul shall have authority to take possession of any such goods, wares, merchandise, or other property,

Duty as to stranded vessels.

when the master, owner, or consignee thereof, is present or capable of taking possession of the same.[1]

* * * * * * * *

Bond to be given.

SEC. 6. *And be it further enacted*, That every consul and vice consul shall, before they enter on the execution of their trusts, or, if already in the execution of the same, within one year from the passing of this act, or, if resident in Asia, within two years, give bond, with such sureties as shall be approved by the Secretary of State, in a sum of not less than two thousand nor more than ten thousand dollars, conditioned for the true and faithful discharge of the duties of his office according to law, and also for truly accounting for all moneys, goods, and effects, which may come into his possession by virtue of this act; and the said bond shall be lodged in the office of the Secretary of the Treasury.[2]

* * * * * * * *

Powers defined.

SEC. 9. *And be it further enacted*, That the specification of certain powers and duties, in this act, to be exercised or performed by the consuls and vice consuls of the United States, shall not be construed to the exclusion of others resulting from the nature of their appointments, or any treaty or convention under which they may act.

Extracts from "An act supplementary to the 'act concerning consuls and vice consuls,' and for the further protection of American seamen," approved February 28, 1803.[3]

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress*

[1] Section fourth of this act was repealed by the thirty-third section of the act of August 18, 1856.

[2] The seventh and eighth sections of this act were repealed by the fifth section of the act of February 28, 1803.

The sixth section is modified by the second, fifth, thirteenth, and thirty third sections of the act of August 18, 1856. The salary of the consuls in the Barbary States is increased, and the provisions respecting the bonds required to be given by consular officers are modified; *vice consuls* must still, as heretofore, give bonds.

[3] Statutes at Large, vol. II, p. 203.

assembled, That before a clearance be granted to any vessel bound on a foreign voyage, the master thereof shall deliver to the collector of the customs, a list containing the names, places of birth and residence, and a description of the persons who compose his ship's company, to which list the oath or affirmation of the captain shall be annexed that the said list contains the names of his crew, together with the places of their birth and residence, as far as he can ascertain them, and the said collector shall deliver him a certified copy thereof, for which the collector shall be entitled to receive the sum of twenty-five cents; and the said master shall moreover enter into bond, with sufficient security, in the sum of four hundred dollars, that he shall exhibit the aforesaid certified copy of the list to the first boarding officer at the first port in the United States at which he shall arrive on his return thereto, and then and there also produce the persons named therein, to the said boarding officer, whose duty it shall be to examine the men with such list, and to report the same to the collector, and it shall be the duty of the collector at the said port of arrival (where the same is different from the port from which the vessel originally sailed) to transmit a copy of the list, so reported to him, to the collector of the port from which said vessel originally sailed: *Provided*, That the said bond shall not be forfeited on account of the said master not producing to the first boarding officer, as aforesaid, any of the persons contained in the said list who may be discharged in a foreign country with the consent of the consul, vice consul, commercial agent, or vice commercial agent there residing, signified in writing, under his hand and official seal, to be produced to the collector with the other persons composing the crew as aforesaid; nor on account of any such person dying or absconding, or being forcibly impressed into other service, of which satisfactory proof shall be then also exhibited to the collector.

Crew lists to be delivered by shipmasters to collectors.

Certified copies of crew lists to be delivered by collectors to shipmasters.

Fee.

Masters to enter into bonds for what conditioned.

Seamen to be returned.

Provisions in favor of shipmasters.

Proofs of persons discharged in foreign ports, or persons dying, to be exhibited to collectors.

Deposit of ships papers.

SEC. 2. *And be it enacted*, That it shall be the duty of every master or commander of a ship or vessel, belonging to citizens of the United States, who shall sail from any port of the United States after the first day of May next, on his arrival at a foreign port, to deposit his register, sea letter, and Mediterranean passport, with the consul, vice consul, commercial agent, or vice commercial agent, (if any there be at such port;) that in case of refusal or neglect of the said master or commander to deposit said papers as aforesaid, he shall forfeit and pay five hundred dollars, to be recovered by the said consul, vice consul, commercial agent, or vice commercial agent, in his own name, for the benefit of the United States, in any court of competent jurisdiction; and it shall be the duty of such consul, vice consul, commercial agent, or vice commercial agent, on such master or commander producing to him a clearance from the proper officer of the port where his ship or vessel may be, to deliver to the said master or commander all of his said papers: *Provided*, Such master or commander shall have complied with the provisions contained in this act, and those of the act to which this is a supplement.[1]

Penalty for refusal.

When papers are to be returned.

Acts to be done upon the discharge of an American seaman in a foreign port.

SEC. 3. *And be it further enacted*, That whenever a ship or vessel belonging to a citizen of the United States shall be sold in a foreign country, and her company discharged, or when a seaman or mariner, a citizen of the United States, shall, with his own consent, be discharged in a foreign country, it shall be the duty of the master or commander to produce to the consul, vice consul, commercial agent, or vice commercial agent, the list of his ship's company, certified as aforesaid; and to pay to such consul, vice consul, commercial agent, or vice commercial agent, for every seaman or mariner so discharged, being designated on such list as a citizen of the United States, three months' pay, over and above the wages which may then be due to such mariner or seaman, two-thirds thereof to be paid by such consul or commercial agent to each

Crew list to be produced.

Three months' wages to be paid, and dispositions thereof.

[1] See last clause of section twenty-eight of the act of August 18, 1856, which modifies this proviso.

seaman or mariner so discharged, upon his engagement on board of any vessel to return to the United States, and the other remaining third to be retained for the purpose of creating a fund for the payment of the passages of seamen or mariners, citizens of the United States, who may be desirous of returning to the United States, and for the maintenance of American seamen who may be destitute, and may be in such foreign port; and the several sums retained for such fund shall be accounted for with the Treasury every six months by the persons receiving the same.

Seamen's fund to be accounted for.

SEC. 4. *And be it further enacted*, That it shall be the duty of the consuls, vice consuls, commercial agents, vice commercial agents of the United States, from time to time, to provide for the mariners and seamen of the United States who may be found destitute within their districts, respectively, sufficient subsistence and passages to some port in the United States, in the most reasonable manner, at the expense of the United States, subject to such instructions as the Secretary of State shall give; and that all masters and commanders of vessels belonging to citizens of the United States, and bound to some port of the same, are hereby required and enjoined to take such mariners or seamen on board their ships or vessels, at the request of the said consuls, vice consuls, commercial agents, or vice commercial agents, respectively, and to transport them to the port in the United States to which such ships or vessels may be bound, on such terms, not exceeding ten dollars for each person, as may be agreed between the said master and consul or commercial agent. And the said mariners or seamen shall, if able, be bound to do duty on board such ships or vessels according to their several abilities: *Provided*, That no master or captain of any ship or vessel shall be obliged to take a greater number than two men to every one hundred tons burden of the said ship or vessel, on any one voyage; and if any such captain or master shall refuse the same

Destitute seamen to be provided with subsistence and passage to the United States.

When shipmasters are required to take on board destitute seamen, and the number thereof.

Terms of passage.

Seamen to do duty.

Proviso.

Penalty for refusal to take destitute seamen.

on the request or order of the consul, vice consul, commercial agent, or vice commercial agent, such captain or master shall forfeit and pay the sum of one hundred dollars for each mariner or seaman so refused, to be recovered for the benefit of the United States in any court of competent jurisdiction. And the certificate of any such consul or commercial agent, given under his hand and official seal, shall be *prima facie* evidence of such refusal in any court of law having jurisdiction for the recovery of the penalty aforesaid.

Consular certificate in evidence.

Consuls to be reimbursed for expenditures.

SEC. 5. *And be it further enacted*, * * * ; that the Secretary of State be authorized to reimburse the consuls, vice consuls, commercial agents, or vice commercial agents, such reasonable sums as they may heretofore have advanced for the relief of seamen, though the same should exceed the rate of twelve cents a man per diem.[1]

* * * * * * *

Penalty for giving false certificates.

SEC. 7. *And be it further enacted*, That if any consul, vice consul, commercial agent, or vice commercial agent shall falsely and knowingly certify that property belonging to foreigners is property belonging to citizens of the United States, he shall, on conviction thereof in any court of competent jurisdiction, forfeit and pay a fine not exceeding ten thousand dollars, at the discretion of the court, and be imprisoned for any term not exceeding three years.

Penalty for granting a false passport.

SEC. 8. *And be it further enacted*, That if any consul, vice consul, commercial agent, or vice commercial agent shall grant a passport or other paper certifying that any alien, knowing him or her to be such, is a citizen of the United States, he shall, on conviction thereof in any court of competent jurisdiction, forfeit and pay a fine not exceeding one thousand dollars.

Powers of attorney for the transfer of stock.

SEC. 9. *And be it further enacted*, That all powers of attorney executed after the thirtieth day of June next, in

[1] The sixth section, and also the last eleven words of this act, are repealed by the twentieth and thirty-third sections of the act of August 18, 1856.

a foreign country, for the transfer of any stock of the United States, or for the receipt of interest thereon, shall be verified by the certificate and seal of a consul, vice consul, commercial agent, or vice commercial agent, if any there be at the place where the same shall be executed; * * * *

AN ACT in addition to the act entitled "An act supplementary to the act concerning consuls and vice consuls," and for the further protection of American seamen. Approved February 28, 1811.

Equitable allowance for transportation of seamen to be made by Comptroller.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases where distressed mariners and seamen of the United States have been transported from foreign ports where there was no consul, vice consul, commercial agent, or vice commercial agent of the United States, to ports of the United States, and in all cases where they shall hereafter be so transported, there shall be allowed to the master or owner of each vessel in which they may or shall have been transported, such reasonable compensation, in addition to the allowance now fixed by law, as shall be deemed equitable by the Comptroller of the Treasury.[1]

AN ACT authorizing the deposit of the papers of foreign vessels with the consul of their respective nations. Approved March 3, 1817.[2]

Papers of foreign ships to be delivered to collector before entry.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the register, or other document in lieu thereof, together with the clearance and other papers, granted by the officers of the customs to any foreign ship or vessel at her departure from the port or place from which she may have arrived, shall, previous to entry in any port of the United States, be produced to the collector with whom such entry is to be made. And it shall be the duty of the master or commander, within forty-eight hours after

[1] Statutes at Large, vol. II, p. 651. [2] Ibid., vol. III, p. 362.

Penalty for refusal to take destitute seamen.

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Consular certificate in evidence.

Consuls' reimbu expen

Deposit of such entry, to deposit the said papers with the consul or vice consul of the nation to which the vessel belongs, and to deliver to the collector the certificate of such consul or vice consul that the said papers have been so deposited; and any master or commander, as aforesaid, who shall fail to comply with this regulation, shall, upon conviction thereof in any court of competent jurisdiction, be fined in a sum not less than five hundred dollars nor exceeding two thousand dollars: *Provided,* That this act shall not extend to the vessels of foreign nations in whose ports American consuls are not permitted to have the custody and possession of the register and other papers of vessels entering the ports of such nation, according to the provisions of the second section of the act supplementary to the act "concerning consuls and vice consuls, and for the further protection of American seamen," passed the twenty-eighth of February, one thousand eight hundred and three.

Papers not to be returned before clearance.

SEC. 2. *And be further enacted,* That it shall not be lawful for any foreign consul to deliver to the master or commander of any foreign vessel the register and other papers deposited with him pursuant to the provisions of this act, until such master or commander shall produce to him a clearance in due form from the collector of the port where such vessel has been entered; and any consul offending against the provisions of this act shall, upon conviction thereof before the Supreme Court of the United States, be fined at the discretion of the court in a sum not less than five hundred dollars nor exceeding five thousand dollars.

Penalty incurred.

Extracts from "An act supplementary to and to amend an act entitled 'An act to regulate the duties on imports and tonnage,' passed second March, one thousand seven hundred and ninety-nine, and for other purposes."[1] Approved March 1, 1823.

* * * * * *

Invoices to be verified before entry.

SEC. 7. *Be it enacted, &c.,* That no goods, wares, or merchandise, subject to ad valorem duty, imported as

[1] Statutes at Large, vol. III, p. 729.

aforesaid, and belonging to a person or persons not residing at the time in the United States, and who shall have actually purchased the same, shall be admitted to entry, unless the invoice be verified by the oath of the owner or one of the owners, certifying that the said goods, wares, or merchandise were actually purchased for his account, or for account of himself and partners in the said purchase; that the invoice annexed thereto contains a true and faithful account of the actual cost thereof, and of all charges thereon, and that no discounts, bounties, or drawbacks are contained in the said invoice but such as have been actually allowed on the same; which said oath shall be administered by a consul or commercial agent of the United States, or by some public officer duly authorized to administer oaths in the country where the said goods, wares, or merchandise shall have been purchased, and the same duly certified by the said consul, commercial agent, or public officer; in which latter case, such official certificate shall be authenticated by a consul or commercial agent of the United States: *Provided*, That if there be no consul or commercial agent of the United States in the country from which the said goods, wares, or merchandise shall have been imported, the authentication hereby required shall be executed by a consul of a nation at the time in amity with the United States, if there be any such residing there; and if there be no such consul in the country, the said authentication shall be made by two respectable merchants, if any such there be, residing in the port from which the said goods, wares, or merchandise shall have been imported.

Invoices to be verified.

Nature of the verification.

Oath to be administered by consular officer or magistrate.

Consular authentication.

Proviso, when there is no consular officer.

SEC. 8. *And be it further enacted*, That no goods, wares, or merchandise, subject to ad valorem duty, imported as aforesaid, and belonging to a person or persons not residing at the time in the United States, who may not have acquired the same in the ordinary mode of bargain and sale, or belonging to a person or persons who may be the manufacturer or manufacturers, in whole or in part, of

Goods subject to ad valorem duty to be verified by the owner's oath.

the same, shall be admitted to entry, unless the invoice thereof be verified by the oath of the owner or of one of the owners, certifying that the invoice contains a true and faithful account of the said goods, wares, or merchandise, at their fair market value at the time and place when and where the same were procured or manufactured, as the case may be, and of all charges thereon; and that the said invoice contains no discounts, bounties, or drawbacks but such as have been actually allowed; which said oath shall have been duly administered and authenticated in the mode prescribed in the seventh section of this act.

* * * * * *

AN ACT to prescribe the punishments of consuls, commercial agents, and others, in certain cases. Approved March 3, 1835.

Fine and imprisonment for giving false certificates.

Be it enacted, &c., That if any consul, vice consul, commercial agent, or vice commercial agent, shall knowingly and falsely certify to any invoice, or other papers to which his certificate is by law authorized or required, he shall, on conviction thereof in any court of competent jurisdiction, forfeit and pay a fine not exceeding ten thousand dollars, at the discretion of the court, and be imprisoned for a term not exceeding three years, at the like discretion.[1]

AN ACT in addition to the several acts regulating the shipment and discharge of seamen, and the duties of consuls.[2] Approved July, 1840.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, As follows:

Duplicate crew list to be a fair copy.

First. The duplicate list of the crew of any vessel bound on a foreign voyage, made out pursuant to the act of February twenty-eighth, eighteen hundred and three, shall be a fair copy in one uniform handwriting, without erasure or interlineation.

Fair copy of shipping arti-

Second. It shall be the duty of the owners of every such vessel to obtain from the collector of the customs of

[1] Statutes at Large, vol. V, p. 773. [2] Ibid. p. 394.

the district from which the clearance is made, a true and certified copy of the shipping articles, containing the names of the crew, which shall be written in a uniform hand, without erasures or interlineations.

cles to be obtained by owners.

Third. These documents, which shall be deemed to contain all the conditions of contract with the crew as to their service, pay, voyage, and all other things, shall be produced by the master, and laid before any consul or other commercial agent of the United States whenever he may deem their contents necessary to enable him to discharge the duties imposed upon him by law toward any mariner applying to him for his aid or assistance.

Crew list and shipping articles to be laid before consular officers.

Fourth. All interlineations, erasures, or writing in a hand different from that in which such duplicates were originally made, shall be deemed fraudulent alterations, working no change in such papers, unless satisfactorily explained in a manner consistent with innocent purposes and the provisions of law which guard the rights of mariners.[1]

Interlineations, erasures, &c.

* * * * * * * * *

Eighth. Whenever any master shall ship a mariner in a foreign port, he shall forthwith take the list of his crew and the duplicate of the shipping articles to the consul, or person who discharges the duties of the office at that port, who shall make the proper entries thereon, setting forth the contract, and describing the person of the mariner; and thereupon the bond originally given for the return of the men shall embrace each person so shipped.

Entry to be made of shipment of mariners.

Ninth. When any mariner shall complain that the voyage is continued contrary to his agreement, or that he has fulfilled his contract, the consul, or other commercial agent performing like duties, may examine into the same by an inspection of the articles of agreement; and if on the face of them he finds the complaint to be well founded, he shall discharge the mariner, if he desires it, and re-

Seamen's complaints to be heard.

[1] The fifth, sixth, and seventh sections of the act are repealed by the thirty-third section of the act of August 18, 1856.

When and on what condition a mariner may be discharged.

quire of the master an advance, beyond the lawful claims of such mariner, of three months' wages, as provided in the act of February twenty-eighth, eighteen hundred and three; and in case the lawful claims of such mariner are not paid upon his discharge, the arrears shall from that time bear an interest of twenty per centum: *Provided, however*, If the consul or other commercial agent shall be satisfied the contract has expired or the voyage been protracted by circumstances beyond the control of the master, and without any design on his part to violate the articles of shipment, then he may, if he deems it just, discharge the mariner without exacting the three months' additional pay.

Proviso.

Shipment of seamen; when void.

Tenth. All shipments of seamen made contrary to the provisions of this and other acts of Congress shall be void; and any seamen so shipped may leave the service at any time, and demand the highest rate of wages paid to any seamen shiped for the voyage, or the sum agreed to be given him at his shipment.

Deserters to be reclaimed.

Eleventh. It shall be the duty of consuls and commercial agents to reclaim deserters and discountenance insubordination by every means within their power; and where the local authorities can be usefully employed for that purpose, to lend their aid and use their exertions to that end in the most effectual manner.

Surveys; when to be ordered.

Twelfth. If the first officer, or any officer and a majority of the crew, of any vessel shall make complaint in writing that she is in an unsuitable condition to go to sea, because she is leaky, or insufficiently supplied with sails, rigging, anchors, or any other equipment, or that the crew is insufficient to man her, or that her provisions, stores, and supplies are not, or have not been during the voyage, sufficient and wholesome, thereupon, in any of these or like cases, the consul or commercial agent who may discharge any duties of a consul shall appoint two disinterested competent practical men, acquainted with maritime affairs, to examine into the causes of complaint,

who shall in their report state what defects and deficiencies, if any, they find to be well founded, as well as what, in their judgment, ought to be done to put the vessel in order for the continuance of her voyage.

Power and duty of inspectors.

Thirteenth. The inspectors so appointed shall have full power to examine the vessel and whatever is aboard of her, so far as is pertinent to their inquiry, and also to hear and receive any other proofs which the ends of justice may require; and if, upon a view of the whole proceedings, the consul or other commercial agent shall be satisfied therewith, he may approve the whole or any part of the report, and shall certify such approval, and if he dissents, shall also certify his reasons for so dissenting.

Duty of consular officer.

Report of inspectors.

Fourteenth. The inspectors in their report shall also state whether, in their opinion, the vessel was sent to sea unsuitably provided in any important or essential particular, by neglect or design, or through mistake or accident; and in case it was by neglect or design, and the consul or other commercial agent approves of such finding, he shall discharge such of the crew as require it, each of whom shall be entitled to three months' pay, in addition to his wages to the time of discharge; but if in the opinion of the inspectors the defects or deficiencies found to exist have been the result of mistake or accident, and could not in the exercise of ordinary care have been known and provided against before the sailing of the vessel, and the master shall in a reasonable time remove or remedy the causes of complaint, then the crew shall remain and discharge their duty; otherwise, they shall, upon their request, be discharged, and receive each one month's wages in addition to the pay up to the time of discharge.

Duty of consular officer.

Charges for survey.

Fifteenth. The master shall pay all such reasonable charges in the premises as shall be officially certified to him under the hand of the consul or other commercial agent; but, in case the inspectors report that the complaint is without any good and sufficient cause, the master may retain from the wages of the complainants, in proportion

to the pay of each, the amount of such charges, with such reasonable damages for detention on that account as the consul or other commercial agent directing the inquiry may officially certify.

Crews of vessels to have the fullest liberty to lay their complaints before the consul.

Sixteenth. The crew of any vessel shall have the fullest liberty to lay their complaints before the consul or commercial agent in any foreign port, and shall in no respect be restrained or hindered therein by the master or any officer, unless some sufficient and valid objection exist against their landing; in which case, if any mariner desire to see the consul or commercial agent, it shall be the duty of the master to acquaint him with it forthwith, stating the reason why the mariner is not permitted to land, and that he is desired to come on board; whereupon it shall be the duty of such consul or commercial agent to repair on board and inquire into the causes of complaint, and to proceed thereon as this act directs.

Apprehension of deserters.

Seventeenth. In all cases where deserters are apprehended, the consul or commercial agent shall inquire into the facts; and if satisfied that the desertion was caused by unusual or cruel treatment, the mariner shall be discharged, and receive, in addition to his wages to the time of his discharge, three months' pay; and the officer discharging him shall enter upon the crew list and shipping articles the cause of discharge, and the particulars in which the cruelty or unusual treatment consisted, and subscribe his name thereto officially.

Penalty incurred by consuls for neglect of duty.

Eighteenth. If any consul or commercial agent shall neglect or omit to perform, seasonably, the duties hereby imposed upon him, or shall be guilty of any malversation or abuse of power, he shall be liable to any injured person for all damage occasioned thereby; and for all malversation and corrupt conduct in office, he shall be liable to indictment, and, on conviction by any court of competent jurisdiction, shall be fined not less than one nor more than ten thousand dollars, and be imprisoned not less than one nor more than five years.

Nineteenth. If any master of a vessel shall proceed on a foreign voyage without the documents herein required, or refuse to produce them when required, or to perform the duties imposed by this act, or shall violate the provisions thereof, he shall be liable to each and every individual injured thereby in damages, and shall, in addition thereto, be liable to pay a fine of one hundred dollars for each and every offence, to be recovered by any person suing therefor in any court of the United States in the district where such delinquent may reside or be found.

Penalty incurred by masters for violation of this act.

Twentieth. It shall be the duty of the boarding officer to report all violations of this act to the collector of the port where any vessel may arrive, and the collector shall report the same to the Secretary of the Treasury and to the attorney of the United States in his district.

Violation of the act to be reported.

* * * * * *

AN ACT requiring foreign regulations of commerce to be laid annually before Congress.[1] Approved August 16, 1842.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be duty of the Secretary of State to lay before Congress, annually, at the commencement of its session, in a compendious form, all such changes and modifications in the commercial systems of other nations, whether by treaties, duties on imports and exports, or other regulations, as shall have come to the knowledge of the department.

Foreign regulations to be laid before Congress.

AN ACT to provide for the transportation of the mail between the United States and foreign countries, and for other purposes.[2] Approved March 3, 1845.

* * * * * * * *

SEC. 6. *And be it further enacted,* That the Postmaster General, or the Secretary of State, be, and he is hereby, authorized to empower the consuls of the United States to pay the foreign postage of such letters, destined for the

Postage; when to be paid by consular officers.

[1] Statutes at Large, vol. V, p. 507. [2] Ibid., pp. 749, 750.

United States, as may be detained at the ports of foreign countries for the non-payment of postage; which postage shall be by the consul marked as paid by him, and the amount thereof shall be collected in the United States, as other postage, on the delivery of the letters, and repaid to said consul, or credited on his account at the State Department.

Collection and repayment of postage.

* * * * * *

AN ACT to amend an act entitled "An act requiring foreign regulations of commerce to be laid annually before Congress," approved August sixteenth, eighteen hundred and forty-two, and for other purposes. Approved August 18, 1856.

Commercial information communicated by consuls, &c., to be reported to Congress.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in addition to the changes and modifications in the commercial systems of other nations, now required by said act, it shall be the duty of the Secretary of State to lay before Congress annually, within sixty days after the commencement of each ordinary session, as a part of said report, all other commercial information communicated to the State Department by consular and diplomatic agents of this government abroad, or contained in the official publications of other governments, which he shall deem sufficiently important.

Duty of consular officers to procure such information.

SEC. 2. *And be it further enacted*, That to enable the Secretary of State to make said report, it is hereby declared to be the duty of consuls and commercial agents of the United States in foreign countries, to procure and transmit to the Department of State, authentic commercial information respecting said countries, of such character, and in such manner and form, and at such times, as said department may, from time to time, prescribe; and it shall be the duty of the Secretary of State in said annual report, to specify the names of any of said officers who may have been remiss in their duty enjoined by this act.

Names of consular officers who may have been remiss to be reported.

Superintendent of statistics.

SEC. 3. *And be it further enacted*, That the Secretary of State be and is hereby authorized and required to appoint

one clerk, who shall have charge of statistics in said department, and shall be called "Superintendent of Statistics," and shall receive a salary of two thousand dollars per annum, and shall be allowed, as an assistant, one clerk of the third class, which clerk the Secretary of State is hereby authorized and required to appoint. Assistant.

AN ACT to regulate the diplomatic and consular systems of the United States.[1] Approved August 18, 1856.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That ambassadors, envoys extraordinary and ministers plenipotentiary, ministers resident, commissioners, chargés d'affaires, and secretaries of legation, appointed to the countries hereinafter named in schedule A, shall be entitled to compensation for their services, respectively, at the rates per annum hereinafter specified; that is to say, ambassadors and envoys extraordinary and ministers plenipotentiary, the full amounts specified therefor in said schedule A; ministers resident and commissioners, seventy-five per centum; chargés d'affaires, fifty per centum; and secretaries of legation, fifteen per centum of the said amounts, respectively: *Provided,* That the compensation of the secretary of the legation to China, acting as interpreter, shall be at the rate of five thousand dollars, and if not acting as such, at the rate of three thousand dollars; and that of the secretary of legation to Turkey, acting as dragoman, at the rate of three thousand dollars, and if not acting as such, at the rate of two thousand dollars, per annum. Pay of diplomatic officers. Pay of secretaries to legations to China and Turkey.

SCHEDULE A.

Great Britain and France, each seventeen thousand five hundred dollars. Compensation of diplomatic agents.

Russia, Spain, Austria, Prussia, Brazil, Mexico, and China, each twelve thousand dollars.

All other countries, each ten thousand dollars.

[1] Statutes at Large, vol. XI, p. 52.

Sub-officers of the legations at London and Paris and China and Turkey.

SEC. 2. *And be it further enacted*, That the President be, and is hereby, authorized to appoint, for the legations at London and Paris, respectively, an assistant secretary of legation, who shall be entitled to compensation for their services, respectively, at the rate of fifteen hundred dollars per annum; for the legation to China, an interpreter, when the secretary of legation shall not be acting as such, who shall be entitled to compensation at the rate of five thousand dollars; and for the legation to Turkey, a dragoman, when the secretary of legation shall not be acting as such, who shall be entitled to compensation at the rate of one thousand dollars per annum.

Pay of consuls general, consuls and commercial agents.

SEC. 3. *And be it further enacted*, That consuls general, consuls, and commercial agents, appointed to the ports and places hereinafter specified in schedules B and C, shall be entitled to compensation for their services, respectively, at the rates per annum hereinafter specified in said schedules B and C; and if the President shall think proper to appoint a consul to any port or place named in the said schedules B and C for a commercial agent, instead of such commercial agent, or *vice versa*, and an appointment shall be made accordingly, the compensation for such consular officer shall be the same in any such case as that fixed for such port or place in the schedule embracing the same; and if he shall think the public interests will be subserved by appointing to any such port or place a consul general instead of a consul or commercial agent, and an appointment shall be made accordingly, the compensation for such consul general shall be the same as that fixed for such port or place in the schedule embracing the same.

Schedule B.

SCHEDULE B.

Consuls general.

I. CONSULS GENERAL.

BRITISH NORTH AMERICA.

Quebec, four thousand dollars.

BRITISH INDIA.

Calcutta, five thousand dollars.

EGYPT.

Alexandria, three thousand five hundred dollars.

JAPAN.

Simoda, five thousand dollars.

CUBA.

Havana, six thousand dollars.

TURKEY.

Constantinople, three thousand dollars.

HANSEATIC AND FREE CITIES.

Frankfort-on-the-Main, three thousand dollars.

II. CONSULS. Consuls.

GREAT BRITAIN.

Liverpool and London, each seven thousand five hundred dollars.

Melbourne, four thousand dollars.

Hong-Kong, three thousand five hundred dollars.

Glasgow, three thousand dollars

Mauritius and Singapore, each two thousand five hundred dollars.

Belfast, Cork, Dundee, Demarara, Halifax, Kingston, (Jamaica,) Leeds, Manchester, Nassau, (New Providence,) Southampton, and Turk's Island, each two thousand dollars. Prince Edward's Island, one thousand dollars.

FRANCE.

Havre, six thousand dollars.

Paris, five thousand dollars.

Marseilles, two thousand five hundred dollars.

Bordeaux, two thousand dollars.

La Rochelle and Lyons, each one thousand five hundred dollars.

RUSSIA.

Moscow, Odessa, Revel, and St. Petersburg, each two thousand dollars.

SPAIN.

Matanzas, Trinidad de Cuba, and Santiago de Cuba, each two thousand five hundred dollars.

San Juan, (Porto Rico,) two thousand dollars.

Cadiz, Malaga, and Ponce, (Porto Rico,) each one thousand five hundred dollars.

AUSTRIA.

Trieste, two thousand dollars.

Vienna, one thousand five hundred dollars.

PRUSSIA.

Aix-la-Chapelle, two thousand five hundred dollars.

CHINA.

Canton and Shanghai, each four thousand dollars.

Fouchou, three thousand five hundred dollars.

Amoy and Ningpo, each three thousand dollars.

TURKEY.

Beyrut and Smyrna, each two thousand dollars.

Jerusalem, one thousand five hundred dollars.

NETHERLANDS.

Rotterdam, two thousand dollars.

Amsterdam, one thousand dollars.

BELGIUM.

Antwerp, two thousand five hundred dollars.

PORTUGAL.

Funchal and Oporto, each one thousand five hundred dollars.

DENMARK.

St. Thomas, four thousand dollars.

Elsineur, one thousand five hundred dollars.

SARDINIA.

Genoa, one thousand five hundred dollars.

SWITZERLAND.

Basle, two thousand dollars.
Geneva, one thousand five hundred dollars.

SICILIES.

Messina, Naples, and Palermo, each one thousand five hundred dollars.

SAXONY.

Leipsic, one thousand five hundred dollars.

BAVARIA.

Munich, one thousand dollars.

TUSCANY.

Leghorn, one thousand five hundred dollars.

WURTEMBURG.

Stuttgardt, one thousand dollars.

HANSEATIC AND FREE CITIES.

Bremen and Hamburg, each two thousand dollars.

BARBARY STATES.

Tangiers, Tripoli, and Tunis, each three thousand dollars.

BRAZIL.

Rio de Janeiro, six thousand dollars.
Pernambuco, two thousand dollars.

MEXICO.

Vera Cruz, three thousand five hundred dollars.
Acapulco, two thousand dollars.

PERU.

Callao, three thousand five hundred dollars.

CHILI.

Valparaiso, three thousand dollars.

BUENOS AYRES.

Buenos Ayres, two thousand dollars.

NICARAGUA.

San Juan del Sur, two thousand dollars.

NEW GRANADA.

Aspinwall, two thousand five hundred dollars.
Panama, three thousand five hundred dollars.

VENEZUELA.

Laguayra, one thousand five hundred dollars.

SANDWICH ISLANDS.

Honolulu, four thousand dollars.
Lahaina, three thousand dollars.

Commercial agents.

III. COMMERCIAL AGENTS.

NICARAGUA.

San Juan del Norte, two thousand dollars.

ST. DOMINGO, (ISLAND.)

Port au Prince, two thousand dollars.
St. Domingo, (city,) one thousand five hundred dollars.

Schedule C.

SCHEDULE C.

Consuls.

I. CONSULS.

GREAT BRITAIN.

Capetown and Falkland Islands, each one thousand dollars.

AUSTRIA.

Venice, seven hundred and fifty dollars.

PRUSSIA.

Stettin, one thousand dollars.

TURKEY.

Candia and Cyprus, each one thousand dollars.

NETHERLANDS.

Batavia, one thousand dollars.

PORTUGAL.

Fayal, and Santiago, (Cape de Verd,) each seven hundred and fifty dollars.

DENMARK.

Saint Croix, seven hundred and fifty dollars.

SARDINIA.

Spezzia, one thousand dollars.

GREECE.

Athens, one thousand dollars.

MUSCAT.

Zanzibar, one thousand dollars.

BRAZIL.

Bahia, Maranham Island, Para, and Rio Grande, each one thousand dollars.

MEXICO.

Matamoras, Mexico, (city,) and Tampico, each one thousand dollars.

Paso del Norte and Tabasco, each five hundred dollars.

PERU.

Paita and Tumbez, each five hundred dollars.

CHILI.

Talcahuano, one thousand dollars.

NEW GRANADA.

Carthagena and Sabanillo, each five hundred dollars.

HONDURAS.

Omoa, one thousand dollars.

ECUADOR.

Guayaquil, seven hundred and fifty dollars.

BOLIVIA.

Cobija, five hundred dollars.

URUGUAY.

Montevideo, one thousand dollars.

SOCIETY ISLANDS.

Tahiti, one thousand dollars.

NEW ZEALAND.

Bay of Islands, one thousand dollars.

NAVIGATORS' ISLANDS.

Apia, one thousand dollars.

FEEJEE ISLANDS.

Lanthala, one thousand dollars.

II. COMMERCIAL AGENTS.

PORTUGAL.

St. Paul de Loanda, (Angola,) one thousand dollars.

LIBERIA.

Monrovia and Gaboon, each one thousand dollars.

ST. DOMINGO, (ISLAND.)

Cape Haytien, one thousand dollars.
Aux Cayes, five hundred dollars.

RUSSIA IN ASIA.

Amoor River, one thousand dollars.

Compensation of consular officers not embraced in schedules B and C.

SEC. 4. *And be it further enacted*, That consuls general, consuls, and commercial agents, not embraced in schedules B and C, shall be entitled, as compensation for their services, to such fees as they may collect in pursuance of the provisions of this act, respectively.

No consul, &c., embraced in schedule B to be engaged in business, &c.

SEC. 5. *And be it further enacted*, That no consul general, consul, or commercial agent, embraced in schedule B, shall, while he holds his office, be interested in or

transact any business as a merchant, factor, broker, or other trader, or as a clerk or other agent for any such person, to, from, or within the port, place, or limits of his consulate or commercial agency, directly or indirectly, either in his own name or in the name or through the agency of any other person; and if appointed after this act shall take effect, he shall, in his official bond, stipulate, as a condition thereof, not to violate this prohibition; and if appointed before and retained in office after this act shall take effect, he shall, within such reasonable time as the President shall prescribe, enter into a new official bond with such stipulation as a condition thereof; and if any such consul general, consul, or commercial agent shall violate such prohibition, he shall be liable to a penalty therefor, for the use of the United States, equal in amount to the annual compensation specified for him in said schedule B, which may be recovered in an action of debt at the suit of the United States, either directly for the penalty as such, against such consul general, or consul, or commercial agent, or upon his official bond, as liquidated damages, for the breach of such condition, against such consul general, consul, or commercial agent, and his sureties, or any one or more of them; and in every such case all such actions shall be open to the United States for the collection of such penalty till the same shall be collected in some one of such actions; and every such penalty, when collected, shall be paid into the Treasury of the United States; and such prohibition shall be applicable to all consuls general, but not to any consul or commercial agent not embraced in said schedule B, except as hereinafter authorized, unless otherwise expressly provided by law.

Kinds of business prohibited.

Bond to that effect to be given.

New bond; when required.

Penalty for violation.

How recovered.

Actions for recovery of penalty.

Penalty to be paid into the Treasury.

Prohibition; to whom applicable.

SEC. 6. *And be it further enacted,* That the President be, and is hereby, authorized to appoint three interpreters of the Chinese language, who shall be entitled to compensation for their services, respectively, at a rate not to exceed fifteen hundred dollars per annum, to be deter-

Interpreters for consulates in China.

Their compensation.

mined by the President, and to assign such interpreters, from time to time, to such consulates in China and with such duties, as he may think proper.

Consular pupils.

Their number.

Their compensation.

Their assignment and duties.

Examination required.

SEC. 7. *And be it further enacted*, That the President be, and is hereby, authorized, whenever he shall think the public good will be promoted thereby, to appoint consular pupils, not to exceed twenty-five in number at any one time, who shall be citizens of the United States, and entitled to compensation for their services, respectively, at a rate not to exceed one thousand dollars per annum, to be determined by the President; and to assign such pupils, from time to time, to such consulates, and with such duties, as he may think proper; and before the appointment of any such pupil shall be made, satisfactory evidence, by examination or otherwise, shall be furnished of his qualifications and fitness for the office to the Secretary of State, and by him laid before the President.

When compensation is to commence and cease.

Cessation of office.

Consular officers contemplated by fourth section not en-

SEC. 8. *And be it further enacted*, That no person appointed, after this act shall take effect, to any such office as is mentioned in the first, second, third, sixth, or seventh sections of this act, shall be entitled to compensation for his services therein, except from the time when he shall reach his post and enter upon his official duties to the time when he shall cease to hold such office, and for such time as shall be actually and necessarily occupied in receiving his instructions, not to exceed thirty days, and in making the transit between the place of his residence when appointed and his post of duty, at the commencement and termination of the period of his official service, for which he shall in all cases be allowed and paid, except as hereinafter mentioned; and no person shall be deemed to hold any such office after his successor shall be appointed and actually enter upon the duties of his office at his post of duty, nor after his official residence at such post shall have terminated if not so relieved; but no such allowance or payment shall be made to any consul general, consul, or commercial agent contemplated by

the fourth section of this act, or to any vice consul, vice commercial agent, deputy consul, or consular agent, for the time so occupied in receiving instructions or in such transit as aforesaid; nor shall any such officer as is referred to in this section be allowed compensation for the time so occupied in such transit, at the termination of the period of his official service, if he shall have resigned, or been recalled therefrom for any malfeasance in his office.

Entitled to compensation.

When a consular officer is not allowed compensation.

SEC. 9. *And be it further enacted*, That when to any diplomatic office held by any person there shall be superadded another, such person shall be allowed additional compensation for his services, in such superadded office, at the rate of fifty per centum of the amount allowed by this act for such superadded office; and such superadded office shall be deemed to continue during the time to which it is limited by the terms thereof, and for such time as shall be actually and necessarily occupied in making the transit between the two posts of duty, at the commencement and termination of the period of such superadded office so limited, and no longer.

When a diplomatic officer receives an added appointment, to have half pay of such office.

Continuance of such office.

SEC. 10. *And be it further enacted*, That for such time as any secretary of legation shall be lawfully authorized to act as chargé d'affaires *ad interim* at the post to which he shall have been appointed, he shall be entitled to receive compensation at the rate allowed by this act for a chargé d'affaires at such post; but he shall not be entitled to receive for such time the compensation allowed for his services as secretary of legation.

Pay of secretaries acting as chargés d'affaires.

Not entitled to two salaries.

SEC. 11. *And be it further enacted*, That for such time as any consular officer shall be authorized, pursuant to the provisions of this act, to perform diplomatic functions, in the absence of the regular diplomatic officer in the country to which he shall be appointed, he shall be entitled, in addition to his compensation as such consular officer, to receive compensation for his services, while so authorized, at the rate allowed by this act for a secretary of legation in such country.

Pay of consular officers performing diplomatic functions.

When consular officers may not exercise diplomatic functions.

SEC. 12. *And be it further enacted*, That no consular officer shall exercise diplomatic functions, or hold any diplomatic correspondence or relation on the part of the United States, in, with, or to the government or the country to which he shall be appointed, or any other country or government, when there shall be in such country any officer of the United States authorized to perform diplomatic functions therein, nor in any case, unless expressly authorized by the President so to do.

Bonds of consuls general, consuls, and commercial agents.

SEC. 13. *And be it further enacted*, That every consul general, consul, and commercial agent, appointed before and retained in office after this act shall take effect, shall, without unnecessary delay, and every such officer appointed after this act shall take effect, shall, before he receives his commission or enters upon the duties of his office, enter into a bond to the United States, with such sureties, who shall be permanent residents of the United States, as the Secretary of State shall approve, in a penal sum not less than one thousand nor more than ten thousand dollars, and in such form as the President shall prescribe, conditioned for the true and faithful accounting for, paying over, and delivering up of all fees, moneys, goods, effects, books, records, papers, and other property which shall come to his hands, or to the hands of any other person to his use, as such consul general, consul, or commercial agent, under any law now or hereafter enacted; and for the true and faithful performance of all other duties now or hereafter lawfully imposed upon him as such consul general, consul, or commercial agent; and in the cases of consuls general, consuls, and commercial agents embraced in schedule B, such bond shall contain, by way of further condition, the stipulation required by the fifth section of this act; and all such bonds shall be deposited with the Secretary of the Treasury, and in no case shall the penalty of such bond be less than the annual compensation allowed to the officer entering into

Penal sum.

Conditions.

Bonds to be deposited with the Secretary of the Treasury.

such bond; and the President shall be authorized to require a new or additional bond from any such consul general, consul, or commercial agent, in like form and in such penalty, within the limits aforesaid, in amount, as he shall prescribe, whenever, in his opinion, the public good shall require it. New bond may be required.

SEC. 14. *And be it further enacted*, That the President be, and he is hereby, authorized to define the extent of country to be embraced within any consulate or commercial agency, and to provide for the appointment of vice consuls, vice commercial agents, deputy consuls, and consular agents therein, in such manner and under such regulations as he shall deem proper; but no compensation shall be allowed for the services of any such vice consul or vice commercial agent, beyond nor except out of the allowance made by this act for the principal consular officer in whose place such appointment shall be made; and no vice consul, vice commercial agent, deputy consul, or consular agent shall be appointed otherwise than in such manner and under such regulations as the President shall prescribe, pursuant to the provisions of this act. President may define limits of consulates, &c., and provide for vice consuls, &c. Their pay to be out of the allowance of the principal consular officer. Mode of appointment of subordinate consular officers.

SEC. 15. *And be it further enacted*, That every vice consul and vice commercial agent shall be entitled, as compensation for his services as such, to the whole or so much of the compensation of the principal consular officer, in whose place he shall be appointed, as shall be determined by the President, and the residue, if any, shall be paid to such principal consular officer; and every consular agent shall be entitled, as compensation for his services, to such fees as he may collect in pursuance of the provisions of this act, or so much thereof as shall be determined by the President; and the principal officer of the consulate or commercial agency within the limits of which such consular agent shall be appointed shall be entitled to the residue, if any, in addition to any other compensation allowed him by this act for his services therein; and the President shall have power to subject any consul or com- Pay of vice consuls and commercial agents. Pay of consular agents. Residue of compensation. President may interdict consul,

&c., or vice consul, &c., from trading.

mercial agent contemplated by the fourth section of this act, and any vice consul, vice commercial agent, deputy consul, or consular agent, to the prohibition as to trade

Bond may be required.

contained in the fifth section of this act, and to require from any of them such bond as is provided for by the thirteenth section of this act, whenever he shall think the public interests will be promoted thereby.

President may prescribe fees for official services, and designate what are official services.

SEC. 16. *And be it further enacted*, That the President be, and he is hereby, authorized to prescribe, from time to time, the rates or tariffs of fees to be charged for official services, and to designate what shall be regarded as official services, besides such as are expressly declared by law, in the business of the several legations, consulates, and commercial agencies, and to adapt the same, by such differences as may be necessary or proper, to each legation, consulate, or commercial agency, and such rates or tariffs shall be reported annually to Congress; and it shall be the duty of all officers and persons connected with such legations, consulates, or commercial agencies to collect for such official services such and only such fees as may be prescribed for their respective legations, consulates, and commercial agencies; and it shall be the duty of the collectors of the several districts, whenever any clearance is granted to any ship or vessel of the United States, duly registered as such, and bound on any foreign voyage, to annex thereto, in every case, a copy of the rates or tariffs of fees which shall be allowed in pursuance of the provisions of this act, and then in force; and it shall be the duty of all consular officers at all times to keep up in their offices, respectively, a copy of such rates or tariffs as shall be in force, in a conspicuous place, and subject to the examination of all persons interested therein.

To report the same annually to Congress.

Prescribed fees only to be collected.

Collectors to annex to clearances a copy of such tariff.

Consuls, &c., to keep a copy in their offices.

Receipts to be given for fees.

SEC. 17. *And be it further enacted*, That it shall be the duty of all consular officers to give receipts for all fees which shall be collected for their official services respectively, expressing the particular services for which the same were collected; and if any such consular officer shall

Official services to be specified.

collect, or knowingly allow to be collected, for any such service, any other or greater fees than such as shall be allowed pursuant to the provisions of this act for such service, he shall, besides his liability to refund the same, be liable to pay to the person by whom or in whose behalf the same shall be paid, treble the amount of said unlawful charge so collected, as a penalty therefor, to be recovered by such person in any proper form of action, to and for the use of such person, besides costs of suit. And in any such case the Secretary of the Treasury is hereby authorized to retain, out of the compensation of such officer, the amount of such overcharge, and of such penalty, and charge the same to such officer in account, and thereupon to refund such unlawful charge, and pay such penalty to the person entitled to the same, if he shall think proper so to do.

Penalty for collecting other or greater fees.

May be off-set to compensation.

Unlawful charge may be refunded.

SEC. 18. *And be it further enacted*, That all fees collected at any of the legations, or by the consuls general, consuls, and commercial agents mentioned in schedules B and C, and by vice consuls and vice commercial agents appointed to perform their duties, or by any other persons in their behalf, shall be accounted for to the Secretary of the Treasury, and held subject to his draft or other directions. And all such consuls general, consuls, commercial agents, and consular agents as are allowed for their compensation the whole or any part of the fees which they may collect pursuant to the provisions of this act, and all vice consuls and vice commercial agents appointed to perform the duties of said consuls general, consuls, and commercial agents as are allowed for their compensation the whole or any part of such fees as aforesaid, shall make returns of all such fees as they or any other persons in their behalf shall so collect, in such manner as the Secretary of State shall prescribe; and all such fees as shall be so collected, accounted for, and reported shall be reported annually to Congress, with the report of the rates or tariffs of fees required by the seven-

Fees to be accounted for.

Subject to draft.

Returns to be made of fees.

Fees to be reported to Congress.

Consular list to be reported.

Penalty for omission to collect fees.

Proviso.

Receipts described.

Fee book; how to be kept.

Names to be specified.

Copy of receipts for fees to be delivered to collector on return of vessels, to be forwarded to

teenth section of this act, with a full list of all consular officers; and if any consul general, consul, or commercial agent mentioned in schedules B and C, or any vice consul or vice commercial agent appointed to perform the duty of any such officer mentioned in said schedules B and C, shall omit to collect any fees which he shall be entitled to charge, pursuant to the provisions of this act, for any official service, he shall be liable to the United States therefor, as though he had collected the same, unless, upon good cause shown therefor, the Secretary of the Treasury shall think proper to remit the same; and every consular officer shall number all receipts given by him for fees received for official services in the order of their dates, beginning with number one at the commencement of the period of his service, and on the first day of January in every year thereafter; and he shall keep a book, in which he shall register all fees so received by him, in the order in which they shall be received, specifying in such register each item of service and the amount received therefor, from whom, and the dates when received, and if for any service connected with any ship or vessel, the name thereof, and indicating what items and amounts are embraced in each receipt given by him therefor, and numbering the same according to the number of the receipts, respectively, so that the receipts and register shall correspond with each other; and he shall, in such register, specify the name of the person for whom and the date when he shall grant, issue, or verify any passport, certify any invoice, or perform any other official service, in the entry of the receipt of the fees therefor, and also number each consular act so receipted for with the number of such receipt, and as shown by such register; and it shall be the duty of all owners, agents, consignees, masters, and commanders of ships and vessels to whom any receipt for fees shall be given by any consular officer, to furnish a copy thereof to the collector of the district in which such ships and vessels shall first arrive on their

return to the United States; and it shall be the duty of every collector to forward to the Secretary of the Treasury all such copies of receipts as shall have been so furnished to him, and also a statement of all certified invoices which shall come to his office, giving the dates of the certificates and the names of the persons for whom and of the consular officers by whom the same were certified; and every consular officer, in rendering his account or report of fees received, shall furnish a full transcript of the register which he is hereby required to keep, under oath or affirmation that the same is true and correct, and that the same contains a full and accurate statement of all fees received by him, or for his use, for his official services as such consular officer, to the best of his knowledge, during the period for which the same shall purport to be rendered, and that such oath or affirmation may be taken before any person having authority to administer oaths and affirmations at the port or place where such consular officer is located; and if any such consular officer shall wilfully and corruptly commit perjury, in any such oath or affirmation, within the intent and meaning of any act of Congress now or hereafter made, he may be charged, proceeded against, tried and convicted, and dealt with in the same manner, in all respects, as if such offence had been committed in the United States before any officer duly authorized therein to administer or take such oath or affirmation, and shall be subject to the same punishment and disability therefor as are or shall be prescribed by any such act for such offence.

Secretary of the Treasury.

Oath to accounts.

By whom administered.

Penalty for perjury.

SEC. 19. *And be it further enacted*, That no such officer as is mentioned in the first, second, third, fourth, sixth, or seventh sections of this act shall, nor shall any consular agent, be absent from his post or the performance of his duties for a longer period than ten days at any one time, without the permission previously obtained of the President. And no compensation shall be allowed for the time of any such absence in any case, except cases of sickness; nor shall

Absence from post; when forbidden. Deductions from pay therefor.

No diplomatic or consular officer to correspond with private persons on public affairs, or recommend to, or ask for or accept, office abroad.

any diplomatic or consular officer correspond in regard to the public affairs of any foreign government with any private person, newspaper, or other periodical, or otherwise than with the proper officers of the United States, nor recommend any person, at home or abroad, for any employment of trust or profit under the government of the country in which he is located; nor ask or accept, for himself or any other person, any present, emolument pecuniary, pecuniary favor, office, or title of any kind, from any such government.

Pay to be in full for all services.

SEC. 20. *And be it further enacted*, That the compensation provided by this act shall be in full for all the services and personal expenses which shall be rendered or incurred by the officers or persons respectively for whom such compensation is provided, of whatever nature or kind such services or personal expenses may be, or by whatever treaty, law, or instructions such services or personal expenses so rendered or incurred are or shall be required; and no allowance, other than such as is provided by this act, shall be made in any case for the outfit or return home of any

Commissions on wages, or being interested in boarding or supplying sailors, forbidden.

such officer or person; and no consular officer shall, nor shall any person under any consular officer, make any charge, or receive, directly or indirectly, any compensation, by way of commission or otherwise, for receiving or disbursing the wages or extra wages to which any seaman or mariner shall be entitled who shall be discharged in any foreign country, or for any money advanced to any such seaman or mariner who shall seek relief from any consulate or commercial agency; nor shall any consular officer, or any person under any consular officer, be interested, directly or indirectly, in any profit derived from clothing, boarding, or otherwise supplying or sending

Proviso.

home any such seaman or mariner: *Provided*, That such prohibition as to profit shall not be construed to relieve or prevent any such officer who shall be the owner or otherwise interested in any ship or vessel of the United States from transporting in such ship or vessel any such seaman

or mariner, or from receiving or being interested in such reasonable allowance as may be made for such transportation, under and by virtue of the fourth section of the act entitled "An act supplementary to the act concerning consuls and vice consuls, and for the further protection of American seamen," approved February twenty-eighth, eighteen hundred and three.

Provisions as to those holding office who are not citizens.

SEC. 21. *And be it further enacted*, That no compensation provided by this act for any such officer as is mentioned in the first section of this act, or for any assistant secretary of legation, or for any such officer as is mentioned in schedules B and C of the third section of this act, or any appropriation therefor, shall be applicable to the payment of the compensation of any person appointed to or holding any such office after this act shall take effect, who shall not be a citizen of the United States; nor shall any other compensation be allowed in any such case.

Stationery and other articles for the legations, consulates, &c., to be provided.

SEC. 22. *And be it further enacted*, That the President be, and is hereby, authorized to provide, at the public expense, all such stationery, blanks, record and other books, seals, presses, flags and signs, as he shall think necessary for the several legations, consulates, and commercial agencies in the transaction of their business; and whenever he shall think there is sufficient reason therefor, to allow consuls general, consuls, and commercial agents who are not allowed to trade, actual expenses of office rent, not to exceed, in any case, ten per centum of the amount of the annual compensation allowed to such officer, and to prescribe such regulations, and make and issue such orders and instructions, not inconsistent with the constitution or any law of the United States, in relation to the duties of all diplomatic and consular officers, the transaction of their business, the rendering of accounts and returns, the payment of compensation, the safe-keeping of the archives and public property in the hands of all such officers, the communication of information, and the procurement and transmission of the products of the arts,

Office rent may be allowed.

President may prescribe rules as to transaction of business and duties of consular officers,

Safe-keeping of archives, and communication of information.

sciences, manufactures, agriculture, and commerce, from time to time, as he may think conducive to the public interests; and it shall be the duty of all such officers to conform to such regulations, orders, and instructions. And it shall be the duty of the Secretary of State to publish official notifications, from time to time, of such commercial information communicated to him by such diplomatic and consular officers as he may deem important to the public interests, in such newspapers, not to exceed three in number, as he may select, and to report to Congress, at least once in each year, a synopsis of so much of the information on all subjects which shall be so communicated to him as he may deem valuable for public information.

Regulations, &c., to be observed.

Secretary of State to publish commercial information.

Report to be made to Congress.

Passports.

SEC. 23. *And be it further enacted*, That the Secretary of State shall be authorized to grant and issue passports, and cause passports to be granted, issued, and verified in foreign countries by such diplomatic or consular officers of the United States, and under such rules as the President shall designate and prescribe, for and on behalf of the United States, and no other person shall grant, issue, or verify any such passport; nor shall any passport be granted or issued to or verified for any other persons than citizens of the United States; nor shall any charge be made for granting, issuing, or verifying any passport, except in a foreign country; and in any case the fee allowed therefor shall not exceed the sum of one dollar, nor shall any such charge be made for more than one such verification in any foreign country; and if any person acting or claiming to act in any office or capacity under the United States, or any of the States of the United States, who shall not be lawfully authorized so to do, shall grant, issue, or verify any passport, or other instrument in the nature of a passport, to or for any citizen of the United States, or to or for any person claiming to be or designated as such in such passport or verification, or if any consular officer who shall be authorized to grant, issue, or verify

Passports to be issued to citizens of the United States only.

Fee for passports; when and where payable.

Penalty for unlawful issue of passports.

passports shall knowingly and wilfully grant, issue, or verify any such passport to or for any person not a citizen of the United States, the person so offending shall be deemed and taken to be guilty of a misdemeanor, and on conviction thereof shall be imprisoned not exceeding one year or fined in a sum not to exceed five hundred dollars, or both, and may be charged, proceeded against, tried, convicted, and dealt with therefor in the district where he may be arrested or in custody; and it shall be the duty of all persons who shall be authorized, pursuant to the provisions of this act, to grant, issue, or verify passports, to make return of the same to the Secretary of State, in such manner and as often as he shall require; and such returns shall specify the names and all other particulars of the persons to whom the same shall be granted, issued, or verified, as embraced in such passport: *Provided*, That in any country where a legation of the United States is established no person other than the diplomatic representative of the United States at such place shall be permitted to grant or issue any passport, except in the absence therefrom of such representative.

Return of passports to be made.

Specifications required.

No person to issue passports except in the absence of a diplomatic officer.

SEC. 24. *And be it further enacted*, That every secretary of legation and consular officer is hereby authorized, whenever he shall be required or may deem it necessary or proper so to do, at the post, port, place, or within the limits of his legation, consulate, or commercial agency, to administer to or take from any person an oath, affirmation, affidavit, or deposition, and also to perform any notarial act or acts such as any notary public is required or authorized by law to do or perform within the United States; and every such oath, affirmation, affidavit, deposition, notarial act administered, sworn, affirmed, taken, had, or done by or before any such officer, when certified under his hand and seal of office, shall be as good, valid, effectual, and of like force and effect within the United States, to all intents and purposes, as if such oath, affirmation, affidavit, deposition, or notarial act had been

Secretaries of legations and consular officers may administer oaths and act as notaries.

Validity of such acts.

administered, sworn, affirmed, taken, had, or done by or before any other person within the United States duly authorized and competent thereto; and if any person shall wilfully and corruptly commit perjury, or by any means procure any person to commit perjury, in any such oath, affirmation, affidavit, or deposition, within the intent and meaning of any act of Congress now or hereafter made, such offender may be charged, proceeded against, tried, convicted, and dealt with, in any district of the United States, in the same manner, in all respects, as if such offence had been committed in the United States before any officer duly authorized therein to administer or take such oath, affirmation, affidavit, or deposition, and shall be subject to the same punishment and disability therefor as are or shall be prescribed by any such act for such offence; and any document purporting to have affixed, impressed, or subscribed thereto or thereon, the seal and signature of the officer administering or taking the same in testimony thereof, shall be admitted in evidence without proof of any such seal or signature being genuine or of the official character of such person; and if any person shall forge any such seal or signature, or shall tender in evidence any such document with a false or counterfeit seal or signature thereto, knowing the same to be false and counterfeit, he shall be deemed and taken to be guilty of a misdemeanor, and on conviction shall be imprisoned not exceeding three years nor less than one year, and fined in a sum not to exceed three thousand dollars, and may be charged, proceeded against, tried, convicted, and dealt with therefor in the district where he may be arrested or in custody.

Penalty for perjury in such oaths.

Mode of trial.

Evidence of the taking of the oath.

Penalty for forging a seal or signature.

Place of trial.

Provisions in case of desertion of seamen.

SEC. 25. *And be it further enacted*, That whenever any seaman or mariner of any vessel of the United States shall desert such vessel, the master or commander of such vessel shall note the fact and date of such desertion on the list of the crew, and the same shall be officially authenticated at the port or place of the consulate or com-

mercial agency first visited by such vessel after such desertion, if such desertion shall have occurred in a foreign country; or if, in such case, such vessel shall not visit any place where there shall be any consulate or commercial agency before her return to the United States, or the desertion shall have occurred in this country, the fact and time of such desertion shall be officially authenticated before a notary public immediately at the first port or place where such vessel shall arrive after such desertion; and all wages that may be due to such seaman or mariner, and whatever interest he may have in the cargo of such vessel, shall be forfeited to and become the property of the United States, and paid over for their use to the collector of the port where the crew of such vessel are accounted for as soon as the same can be ascertained, first deducting therefrom any expense which may necessarily have been incurred on account of such vessel in consequence of such desertion; and in settling the account of such wages or interest no allowance or deduction shall be made, except for moneys actually paid, or goods at a fair price supplied, or expenses incurred to or for such seamen or mariner, any receipt or voucher from or arrangement with such seaman or mariner to the contrary notwithstanding.

Authentication of the desertion.

Forfeiture of wages.

Settlement of account for wages.

SEC. 26. *And be it further enacted*, That upon the application of any seaman or mariner for a discharge, if it shall appear to the consular officer that he is entitled to his discharge under any act of Congress, or according to the general principles or usages of maritime law as recognised in the United States, he shall discharge such seaman or mariner, and shall require from the master or commander of the ship or vessel from which such discharge shall be made, the payment of three months' extra wages, as provided by the act hereinbefore mentioned, approved February twenty-eighth, eighteen hundred and three; and it shall be the duty of such master or commander to pay the same, and no such payment or any part thereof

Provision for the case of the discharge of seamen abroad.

Extra wages required.

When only payment of extra

wages may be remitted.

shall be remitted in any case, except such as are mentioned in the proviso of the ninth clause of the act entitled "An act in addition to the several acts regulating the shipment and discharge of seamen and the duties of consuls," approved July twentieth, eighteen hundred and forty, and as hereinafter provided, and the extra wages required to be paid by the said ninth clause of the last hereinbefore mentioned act, and by this section, shall be applicable to the same purposes and in the same manner as is directed by the said act approved February twenty-eighth, eighteen hundred and three, in regard to the extra wages required to be paid thereby; and if any consular officer, when discharging any seaman or mariner, shall neglect to require the payment of and collect the extra wages required to be paid in the case of the discharge of any seaman or mariner by either of the said acts, as far as they shall remain in force under this act, or by this act, he shall be accountable to the United States for the full amount of their share of such wages, and to such seaman or mariner to the full amount of his share thereof; and if any seaman or mariner shall, after his discharge, have incurred any expense for board or other necessaries at the port or place of his discharge before shipping again, such expense shall be paid out of the share of the three months' wages to which he shall be entitled, which shall be retained for that purpose, and the balance only paid over to him: *Provided, however*, That in cases of wrecked or stranded ships or vessels, or ships or vessels condemned as unfit for service, no payment of extra wages shall be required.

Application of extra wages.

Consular officers accountable for extra wages.

Proviso.

List to be kept of seamen shipped or discharged, and of all vessels arriving or departing, and of their cargoes, and payments made.

SEC. 27. *And be it further enacted*, That every consular officer shall keep a detailed list of all seamen and mariners shipped and discharged by him, specifying their names and the names of the vessels on and from which they shall be shipped and discharged, and the payments, if any, made on account of each so discharged; and also of the number of the vessels arrived and departed, and the amounts of their registered tonnage, and the number

of their seamen and mariners, and of those who are protected, and whether citizens of the United States or not, and as nearly as possible the nature and value of their cargoes, and where produced, and make returns of the same, with their accounts and other returns, to the Secretary of the Treasury; and no consular officer shall certify any invoice unless he shall be satisfied that the person making the oath or affirmation thereto is the person he represents himself to be, that he is a credible person, and that the statements made under such oath or affirmation are true; and he shall thereupon, by his certificate, state that he was so satisfied; and it shall be the duty of every consular officer to furnish to the Secretary of the Treasury, as often as shall be required, the prices current of all articles of merchandise usually exported to the United States from the port or place in which he shall be located.

Nature of returns to be made to Secretary of the Treasury.

When consular officers are forbidden to certify invoices.

Certificate.

Prices current to be furnished.

SEC. 28. *And be it further enacted*, That it shall be the duty of every master and commander of a ship or vessel of the United States, whenever he shall have occasion for any consular or other official service which any consular officer of the United States shall be authorized by law or usage officially to perform, and for which any fees shall be allowed by the said rates or tariffs of fees as aforesaid, to apply to such one of the said officers as may then be officially located at the consulate or commercial agency, if any there be where such service shall be required, to perform such service; and such master or commander shall pay to such officer such fees as shall be allowed for such service in pursuance of the provisions of this act; and if any such master or commander shall omit so to do, he shall be liable to the United States for the amount of the fees lawfully chargeable for such services, as though the said services had been performed by such officer; and all consular officers are hereby authorized and required to retain in their possession all the papers of such ships and vessels which shall be deposited

Masters, &c., of ships obliged to apply to said officers when they have occasion for any official services.

Fees to be paid.

Masters liable for the amount of fees.

Ship's papers may be detained till payment is made.

with them as directed by law, till payment shall be made of all demands and wages on account of such ships and vessels.

Duties of consular officers when citizens die abroad.

SEC. 29. *And be it further enacted*, That if any citizen of the United States who shall die abroad shall, by any lawful testamentary disposition, leave special directions for the custody and management, by the consular officer of the port or place where he shall die, of the personal property of which he shall die possessed in such country, as contemplated by the act entitled "An act concerning consuls and vice consuls," approved April fourteenth, seventeen hundred and ninety-two, it shall be the duty of such officer, so far as the law of such country will permit, strictly to observe such directions; and if any such citizen so dying shall, by any lawful testamentary disposition, have appointed any other person or persons than such officer to take charge of and manage such property, it shall be the duty of such officer, whenever required by such person or persons so appointed, to give his official aid in whatever way may be necessary to facilitate the proceedings of such person or persons in the lawful execution of such trust, and, so far as the laws of the country permit, to protect the property of the deceased from any interference of the local authorities of the country where such citizen shall die; and to this end it shall be the duty of such consular officer to place his official seal upon all or any of the personal property or effects of the deceased, and to break and remove such seals, as may be required by such person or persons, and not otherwise.

Official assistance to be given to executors.

When seals are to be placed and removed.

Fees; in what coinage payable.

SEC. 30. *And be it further enacted*, That all fees collected for and in behalf of the United States, in pursuance of this act, shall be collected in the coin of the United States, or at its representative value in exchange.[1]

Construction of former acts about consular officers.

SEC. 31. *And be it further enacted*, That in the construction, and for the purposes, of all other acts and parts of acts which shall remain in force after this act shall take effect, defining any of the powers, declaring any of the

[1] See section 700 of the Regulations.

rights, prescribing any of the duties, or imposing any penalty or punishment for any act of omission or commission of any consul, commercial agent, vice consul, or vice commercial agent, or allowing or enjoining the performance of any act, matter, or thing, with or before any such officer, all such acts and parts of acts, shall in all these several respects, so far as may be consistent with the subject-matter and context of the same and with this act and the treaties of the United States, be deemed and taken to include and apply to all consular officers as though all such officers were specially named therein; and the said official designations in contemplation of all such acts and parts of acts, and of this act, shall be deemed and taken to have the respective meanings hereinafter assigned to them; that is to say, "consul general," "consul," and "commercial agent," shall be deemed and taken to denote full, principal, and permanent "consular officers," as distinguished from subordinates and substitutes; "deputy consul" and "consular agent" shall be deemed and taken to denote "consular officers" subordinate to such principals, exercising the powers and performing the duties within the limits of their consulates or commercial agencies respectively, the former at the same ports or places, and the latter at ports or places different from those at which such principals are located, respectively; and "vice consuls" and "vice commercial agents" shall be deemed and taken to denote "consular officers" who shall be substituted temporarily to fill the places of "consuls general," "consuls," or "commercial agents," when they shall be temporarily absent or relieved from duty; and the term "consular officer," as used in this act, shall be deemed and taken to include all such officers as are mentioned in this section, and none others; and the term "diplomatic officer," as used in this act, shall be deemed and taken to include all the officers mentioned in the first section of this act, and none others.

Meaning of titles of consular officers.

Consul general; consul; commercial agent.

Deputy consul; consular agent.

Vice consul; vice commercial agent.

Consular officer.

Diplomatic officer.

Penalties for violation or neglect of duty by consular officers.

SEC. 32. *And be it further enacted*, That if any consular officer shall wilfully neglect or omit to perform seasonably any duty imposed upon him by this or any other act, or by any order or instruction made or given in pursuance of this or any other act, or shall be guilty of any wilful malfeasance or abuse of power or any corrupt conduct in his office, he shall be liable to all persons injured by any such neglect or omission, malfeasance, abuse, or corrupt conduct, for all damages occasioned thereby; and for all such damages by any such officer, he, and his sureties upon his official bond, shall be responsible thereon to the full amount of the penalty thereof, to be sued in the name of the United States for the use of the person or persons so injured: *Provided*, That such suit shall in no case prejudice, but shall be held in entire subordination to the interests, claims, and demands of the United States, as against such officer, under such bond, for every wilful act of malfeasance or corrupt conduct in his office; and if any such officer shall refuse to pay any draft, order, or warrant which may be drawn upon him by the proper officer of the Treasury Department for any public moneys of the United States in his hands, or for any amount due from him to the United States, whatever the capacity in which he may have received or may hold the same, or to transfer or disburse any such moneys promptly upon the legal requirement of any authorized officer of the United States, he shall be deemed and taken to be guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment not to exceed ten years nor less than one year, or by fine not to exceed two thousand dollars nor less than two hundred dollars, or both, at the discretion of the court; and any such officer so offending may be charged, proceeded against, tried, convicted, and dealt with in any district in which he may be arrested or in custody.

Proviso.

Penalty for refusal to pay draft, order, or warrant.

Where trial to be had.

Repealing clause.

SEC. 33. *And be it further enacted*, That the fifth, sixth, and seventh sections of the act hereinbefore mentioned,

approved July twentieth, eighteen hundred and forty, and all of the act entitled "An act to remodel the diplomatic and consular systems of the United States," approved March first, eighteen hundred and fifty-five, and all acts and parts of acts whereby any such fees as are contemplated by the seventeenth section of this act are fixed or allowed, and any usage or law whereby any attaché is or may be allowed to any legation other than such as are provided in this act, or requiring any secretary of legation to be employed otherwise than as provided by this act, and all other acts and parts of acts, so far as the same are inconsistent with this act, be, and the same are hereby, annulled and repealed; and no attaché shall be allowed in any case, nor any secretary of legation, otherwise than as provided by this act.

No attaché nor secretary of legation allowed otherwise than is provided.

SEC. 34. *And be it further enacted*, That this act shall take effect on the first day of January next, and not before.

When this act to take effect.

AN ACT to carry into effect certain provisions in the treaties between the United States and China and the Ottoman Porte, giving certain judicial powers to ministers and consuls of the United States in those countries. Approved August 11, 1848.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, to carry into full effect the provisions of the treaty of July third, eighteen hundred and forty-four, with the Chinese empire, the commissioner and the consuls of the United States, duly appointed to reside in China, shall, in addition to the other powers and duties imposed upon them by the provisions of said treaty, be vested with the judicial authority herein described, which shall appertain to the said office of commissioner and consul, and be a part of the duties belonging thereto.

The commissioner and consuls of the United States appointed to reside in China vested with judicial authority.

SEC. 2. *And be it further enacted*, That in regard to crimes and misdemeanors, the said public functionaries are hereby fully empowered to arraign and try, in the

May arraign and try all citizens of the United States

charged with offences against law in the dominions of China, and, upon conviction, sentence the offenders.

manner herein provided, all citizens of the United States charged with offences against law, which shall be committed in the dominions of China, * * * * * and, upon conviction, to sentence such offenders in the manner herein authorized; and the said functionaries and each of them are hereby authorized to issue all such processes as are suitable and necessary to carry this authority into execution.

Their jurisdiction in regard to civil rights.

SEC. 3. *And be it further enacted*, That in regard to civil rights, whether of property or person, the said functionaries are hereby vested with all the judicial authority necessary to execute the provisions of said treaty, and shall entertain jurisdiction in matters of contract at the port where, or nearest to which, the contract was made, or at the port at which, or nearest to which, it was to be executed; and in all other matters at the port where, or nearest to which, the cause of controversy arose, or at the port where, or nearest to which, the damage complained of was sustained—any such port above named being always one of the five mentioned in the treaty; which jurisdiction shall embrace all controversies between citizens of the United States or others provided for by said treaty.

Laws of the United States extended over the citizens of the United States in China; and when they are deficient, the common law extended in like manner.

SEC. 4. *And be it further enacted*, That such jurisdiction in criminal and civil matters shall, in all cases, be exercised and enforced in conformity with the laws of the United States, which are hereby, so far as is necessary to execute said treaty, extended over all citizens of the United States in China, (and over all others to the extent that the terms of the treaty justify or require,) so far as such laws are suitable to carry said treaty into effect; but in all cases where such laws are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies, the common law shall be extended in like manner over such citizens and others in China; and if defects still remain to be supplied, and neither the common law nor the statutes of the United States furnish appropriate and suitable remedies, the com-

Where these are insufficient, the commissioner shall, by de-

missioner shall, by decrees and regulations which shall have the force of law, supply such defects and deficiencies.

crees and regulations, supply such defects.

SEC. 5. *And be it further enacted*, That, in order to organize and carry into effect the system of jurisprudence demanded by said treaty, the commissioner, with the advice of the several consuls for the five ports named in said treaty, or so many of them as can be conveniently assembled, shall prescribe the forms of all processes which shall be issued by any of said consuls; the mode of executing and the time of returning the same; the manner in which trials shall be conducted, and how the records thereof shall be kept; the form of oaths for Christian witnesses, and the mode of examining all other witnesses; the costs which shall be allowed to the prevailing party, and the fees which shall be paid for judicial services to defray necessary expenses; the manner in which all officers and agents to execute process, and to carry this act into effect, shall be appointed and compensated; the form of bail bonds, and the security which shall be required of the party who appeals from the decision of a consul; and generally, without further enumeration, to make all such decrees and regulations from time to time, under the provisions of this act, as the exigency may demand; and all such regulations, decrees, and orders shall be plainly drawn up in writing, and submitted, as above provided, for the advice of the consuls, or as many of them as can be consulted without prejudicial delay or inconvenience, who shall each signify his assent or dissent in writing, with his name subscribed thereto; and after taking such advice, and considering the same, the commissioner may, nevertheless, by causing the decree, order, or regulation to be published with his signature thereto, and the opinions of his advisers inscribed thereon, [*make it*] to become binding and obligatory, until annulled or modified by Congress, and it shall take effect from the publication or any subsequent day thereto named in the act.

The commissioner, with the advice of the several consuls, to make the necessary regulations, decrees, &c., for carrying the provisions of this act into effect.

Such regulations, decrees, &c., to be transmitted to the President, to be laid before Congress.

SEC. 6. *And be it further enacted*, That all such regulations, orders, and decrees shall, as speedily as may be after publication, be transmitted by the commissioner, with the opinions of his advisers, as drawn up by them severally, to the President, to be laid before Congress for revision.

Powers and duties of consuls.

SEC. 7. *And be it further enacted*, That each of the consuls aforesaid, at the port for which he is appointed, shall be competent, under the authority herein contained, upon facts within his own knowledge, or which he has good reason to believe true, or upon complaint made, or information filed in writing and authenticated in such way as shall be prescribed by the commissioner, to issue his warrant for the arrest of any citizen of the United States charged with committing in China an offence against law; and when arrested, to arraign and try any such offender; and upon conviction, to sentence him to punishment in the manner herein prescribed; always meting out [*punishment*] in a manner proportioned to the offence; which punishment shall, in all cases, except as is herein otherwise provided, be either fine or imprisonment.

No appeal from the decision of a consul in certain cases.

SEC. 8. *And be it further enacted*, That any consul, when sitting alone for the trial of offences, shall finally decide all cases where the fine imposed does not exceed one hundred dollars, or the term of imprisonment does not exceed sixty days, and there shall be no appeal therefrom, except as provided in section eleven of this act.

Cases in which the defendant may appeal to the commissioner.

SEC. 9. *And be it further enacted*, That when sitting alone he may also decide all cases in which the fine imposed does not exceed five hundred dollars, or the term of imprisoment does not exceed ninety days; but in all such cases, if the fine exceeds one hundred dollars, or the imprisonment exceeds ninety days, the defendant may, by complying with the requirements in cases of appeal, carry the case before the commissioner by appeal.

Cases in which the consul may summon one or

SEC. 10. *And be it further enacted*, That whenever in any case the consul shall be of opinion that, by reason of

the legal questions which may arise therein, assistance will be useful to him, or whenever he shall be of opinion that a severer punishment than those above specified will be required, he shall, in either case, summon one or more citizens of the United States, not exceeding four in number, but in capital cases not less than four, who shall be persons of good repute and competent to the duty, to sit with him in the trial, and who, after so sitting upon the trial, shall each enter upon the record his judgment and opinion, and sign the same. The consul shall, however, decide the case; but if his decision is opposed by the opinion of one or more of his associates, the case, without further proceedings, together with the evidence and opinions, shall be referred to the commissioner for his final adjudication, either by entering up judgment therein, or remitting the same to the consul with instructions how to proceed therewith; but in all such cases, except capital offences, if the consul and his associates concur in opinion, the decision shall be final.

more American citizens for assistance and advice.

SEC. 11. *And be it further enacted*, That the consuls aforesaid, and each of them, at the port for which he is appointed, shall have jurisdiction, as is herein provided, in all civil cases arising under said treaty, wherein the damage demanded does not exceed the sum of five hundred dollars; and if he sees fit to decide the same without aid, his decision thereon shall be final; but if in his judgment any case involves legal perplexities, and assistance will be useful, or if the damage demanded exceeds five hundred dollars, in either such case it shall be his duty to summon to his aid not less than two nor more than three citizens of the United States, of good repute and competent to the duty, who shall with him hear any such case; and if the consul and his associates concur in opinion, the judgment shall be final; but if the associates, or any of them, differ from the consul, the opinions of all shall be noted on the record, and each shall subscribe his name to his assent to, or dissent from, the consul, with such reasons therefor as he

Extent of jurisdiction of consuls.

thinks proper to assign, and either party may thereupon appeal, under such regulations as may exist, to the commissioner; but if no appeal is lawfully claimed, the decision of the consul shall be final and conclusive.

Evidence in all cases to be taken down in writing.

SEC. 12. *And be it further enacted*, That, in all cases criminal and civil, the evidence shall be taken down in writing in open court, under such regulations as may be made for that purpose; and all objections to the competency or character of testimony shall be noted down, with the ruling in all such cases, and the evidence shall be part of the case.

Jurisdiction of commissioner.

SEC. 13. *And be it further enacted*, That the commissioner of the United States shall, in addition to his power to make regulations and decrees, as is herein provided, be fully authorized to hear and decide all cases, criminal and civil, which may come before him under the provisions of this act, and to issue all processes necessary to execute the power conferred upon him; and he is hereby fully empowered to decide finally any case upon the evidence which comes up with it, or to hear the parties further, if he thinks justice will be promoted thereby: and he may also prescribe the rules upon which new trials may be granted, either by the consuls or by himself, if asked for upon justifiable grounds.

Punishment, except in cases hereinafter mentioned, to be fine and imprisonment, and to be in proportion to the magnitude of the offence.

SEC. 14. *And be it further enacted*, That in all cases, except as is herein otherwise provided, the punishment of crime provided for by this act shall be by fine or imprisonment, or both, at the discretion of the functionary who decides the case, but subject to the regulations herein contained, and such as may hereafter be made. It shall, however, be the duty of each and every functionary to allot punishment according to the magnitude and aggravation of the offence, and all who refuse or neglect to comply with the sentence passed upon them shall stand committed until they do comply, or are discharged by order of the consul, with the consent of the commissioner.

Capital offences.

SEC. 15. *And be it further enacted*, That murder and insurrection, or rebellion against the Chinese government, with intent to subvert the same, shall be capital offences, punishable with death; but no person shall be convicted of either of said crimes unless the consul and his associates in the trial all concur in opinion, and the commissioner also approves of the conviction; but it shall always be lawful to convict one put upon trial for either of these crimes of a lesser offence, of a similar character, if the evidence justifies it; and when so convicted, to punish, as for other offences, by fine or imprisonment, or both.

Commissioner to issue his warrant for the execution of persons convicted of capital offences.

May postpone such execution and may submit the case to the President for pardon.

SEC. 16. *And be it further enacted*, That whenever any one shall be convicted of either of the crimes punishable with death, as aforesaid, it shall be the duty of the commissioner to issue his warrant for the execution of such convict, appointing the time, place, and manner; but if the said commissioner shall be satisfied that the ends of public justice demand it, he may, from time to time, postpone such execution; and if he finds mitigatory circumstances which may authorize it, may submit the case to President of the United States for pardon.

Commissioner to establish a tariff of fees, &c.

SEC. 17. *And be it further enacted*, That it shall be the duty of the commissioner to establish a tariff of fees for judicial services, which shall be paid by such parties, and to such persons, as said commissioner shall direct; and the proceeds shall, as far as is necessary, be applied to defray the expenses incident to the execution of this act; and regular accounts, both of rececipts and expenditures, shall be kept and laid before Congress by the commissioner annually.

* * * * * * *

Adjustment of controversies by the parties interested.

SEC. 19. *And be it further enacted*, That, in all criminal cases which are not of a heinous character, it shall be lawful for the parties aggrieved or concerned therein, with the assent of the commissioner or consul, to adjust and settle the same among themselves, upon pecuniary or other considerations.

Commissioner and consuls shall encourage the settlement of civil controversies by mutual agreement, &c., among the parties.

SEC. 20. *And be it further enacted*, That it shall be the duty also of the commissioner and the consuls to encou age the settlement of controversies of a civil character, by mutual agreement, or to submit them to the decision of referees agreed upon by the parties, a majority of whom shall have power to decide the matter. And it shall be the duty of the commissioner to prepare a form of submission for such cases, to be signed by the parties and acknowledged before the consul; and when parties have so agreed to refer, the referees may, after suitable notice of the time and place of meeting for the trial, proceed ex parte, in case either party refuses or neglects to appear; and, after hearing any case, may deliver their award, sealed, to the consul, who, in court, shall open the same; and if he accepts it, he shall endorse the fact, and judgment shall be rendered thereon, and execution issue in compliance with the terms thereof: *Provided, however*, That the parties may always settle the same before return thereof is made to the consul.

May call on the Chinese authorities to support them in the exercise of the powers herein confided to them.

SEC. 21. *And be it further enacted*, That the commissioner and consuls shall be fully authorized to call upon the Chinese authorities to sustain and support them in the execution of the powers confided to them by said treaty, and on their part to do and perform whatever is necessary to carry the provisions of said treaty into full effect, so far as they are to be executed in China.

Provisions of this act extended to Turkey.

SEC. 22. *And be further enacted*, That the provisions of this act, so far as the same relate to crimes committed by citizens of the United States, shall extend to Turkey, under the treaty with the Sublime Porte of May seventh, eighteen hundred and thirty, and shall be executed in the dominions of the Sublime Porte, in conformity with the provisions of said treaty, by the minister of the United States, and the consuls appointed by the United States to reside therein, who are hereby ex-officio vested with the powers herein contained, for the purposes above expressed, so far as regards the punishment of crime.

SEC. 23. *And be it further enacted*, That the word commissioner, when used in this act, shall be understood to mean the persons vested with and exercising the principal diplomatic functions in China; and the word minister, as meaning the person vested with the powers of chief diplomatic functionary of the United States in Turkey. The word consul shall be understood to mean any person vested by the United States with, and exercising, the consular authority in any of the five ports in China named in the treaty, or in any port in Turkey.

Meaning of words "commissioner" and "consul" as used in this act.

SEC. 24. *And be it further enacted*, That all such officers shall be responsible for their conduct to the United States and to the laws thereof, not only as dipomatic functionaries and commercial functionaries, but as judicial officers, when they perform judicial duties, and shall be held liable for all negligencies and misconduct as public officers.

All officers herein referred to responsible to the United States and the laws thereof.

List of the principal acts of Congress in which there are references to the duties of consular officers.

An act for the government and regulation of seamen in the merchant service. July 20, 1790. Stat. at Large, vol. I, p. 131.

An act concerning consuls and vice consuls. April 14, 1792. Statutes at Large, vol. I, p. 254.

An act for the relief and protection of American seamen. May 28, 1796. Statutes at Large, vol. I, p. 477.

An act for the relief of sick and disabled seamen. July 16, 1798. Statutes at Large, vol. I, p. 605.

An act to regulate the collection of duties on imports and tonnage. March 2, 1799. Statutes at Large, vol. I, p. 627.

An act to amend an act intituled "An act for the relief of disabled seamen," and for other purposes. May 3, 1802. Statutes at Large, vol. II, p. 192.

An act supplementary to the "Act concerning consuls and vice consuls, and for the further protection of American seamen." Feb. 28, 1803. Statutes at Large, vol. II, p. 203.

An act in addition to the act entitled "An act supplementary to the act concerning consuls and vice consuls," and for the further protection of American seamen. February 28, 1801. Statutes at Large, vol. II, p. 651.

An act fixing the compensation of public ministers and of consuls residing on the coast of Barbary, and for other purposes. May 1, 1810. Statutes at Large, vol. II, p. 608.

An act for the regulation of seamen on board the public and private vessels of the United States. March 3, 1813. Statutes at Large, vol. II, p. 809.

An act authorizing the deposit of the papers of foreign vessels with the consul of their respective nations. March 3, 1817. Statutes at Large, vol. III, p. 362.

An act supplementary to "An act to regulate the collection of duties on imports and tonnage," passed the second day of March, one thousand seven hundred and ninety-nine. April 20, 1818. Statutes at Large, vol. III, p. 433.

An act supplementary to and to amend an act entitled "An act to regulate the collection of duties on imports and tonnage," passed the second day of March, one thousand seven hundred and ninety-nine, and for other purposes. March 1, 1823. Statutes at Large, vol. III, p. 729.

An act to prescribe the punishments of consuls, commercial agents, and others, in certain cases. March 3, 1835. Statutes at Large, vol. IV, p. 773.

An act in addition to the several acts regulating the shipment and discharge of seamen, and the duties of consuls. July 20, 1840. Statutes at Large, vol. V, p. 394.

An act to amend the act entitled "An act to provide for the enlistment of boys for the naval service, and to extend the term of enlistment of seamen." Feb. 20, 1845. Statutes at Large, vol. V, p. 725.

An act to provide for the transportation of the mail between the United States and foreign countries, and for other purposes. March 3, 1845. Statutes at Large, vol. V, p. 748.

An act more effectually to provide for the enforcement of certain provisions in the treaties of the United States. August 8, 1846. Statutes at Large, vol. IX, p. 78.

An act to carry into effect certain provisions in the treaties between the United States and China and the Ottoman Porte, giving certain judicial powers to ministers and consuls of the United States in those countries. Aug. 11, 1848. Statutes at Large, vol. IX, p. 276.

An act to repeal so much of the act approved eleventh day of August, eighteen hundred and forty-eight, as extends the provisions thereof to Macao. September 20, 1850. Statutes at Large, vol. IX, p. 468.

An act to remodel the diplomatic and consular systems of the United States March 1, 1855. Statutes at Large, vol. X, p. 619.

An act to regulate the diplomatic and consular systems of the United States. August 18, 1856. Statutes at Large, vol. XI, p. 52.

An act to amend an act entitled "An act requiring foreign regulations of commerce to be laid annually before Congress," approved August eighteenth, eighteen hundred and forty-two, and for other purposes. August 18, 1856. Statutes at Large, vol. XI, p. 139.

FORMS.

In order to render uniform, as far as possible, the mode of transacting consular business, the following forms have been prepared for the purpose of exhibiting the character and kind of service consular officers may be called upon to perform. These forms, as will be perceived, are referred to in the General Instructions, and are to be observed by consular officers in the transaction of official business.

FORM No. 1.

Names of persons employed at the U. S. Consulate at ———.

Name.	Place.	Of what country a citizen or subject.	Rank.	Date of nomination.	Date of approval.

Form No. 2.

Bond to be given by consular officers mentioned in schedule B of the act of the 18th August, 1856.

Know all men by these presents, that we, ——— ——— and ——— ———, are held and firmly bound to the United States of America in the sum of ——— thousand dollars, money of the said United States, to the payment whereof we bind ourselves, jointly and severally, our joint and several heirs, executors, and administrators.

Witness our hands and seals, this ——— day of ———, 18—.

The condition of the above obligation is such, that if the above bounden ——— ———, appointed ——— of the United States at ———, shall truly and faithfully discharge the duties of his said office according to law, and shall truly and faithfully account for, pay over, and deliver up all fees, moneys, goods, effects, books, records, papers, and other property which shall come to the hands of the said ——— ———, or to the hands of any person for his use as such ———, under any law now or hereafter enacted, and that he will truly and faithfully perform all other duties now or hereafter lawfully imposed upon him as such ———. And these presents are subject to this other and further condition, that he, the said ——— ———, will not, while he holds the said office, be interested in, or transact any business as a merchant, factor, broker, or other trader, or as a clerk or other agent for any such person to, from, or within the port, place, or limits of his ———, directly or indirectly, either in his own name, or in the name, or through the agency, of any other person; and in case he, the said ——— ———, shall violate the provisions of this condition, that then the above named obligors shall be liable to said obligees, to a penalty for the breach of such condition in a sum equal to the amount of the annual compensation of said ——— ———; which is hereby stipulated, agreed upon, and admitted by way of liquidated damages, but that this condition shall not impair or prevent the right of the United States to prosecute said ——— ——— for the recovery of said penalty against him, the said ——— ———, individually, the same as if this bond had not been given; and if the said ——— ——— shall conform to all the above conditions, then this obligation to be void; otherwise, to remain in full force.

——— ———. [L. S.]

——— ———. [L. S.]

Signed, sealed, and delivered
in the presence of us—

——— ———.

——— ———.

The following instructions must be particularly observed and complied with:

1st. The christian names must be written in the body of the bond in full, and so signed to the bond.

2d. A seal of wax or wafer to be attached to each signature.

3d. Each signature must be made in the presence of two persons, who must sign their names as witnesses.

4th. The United States attorney of the district in which the sureties reside must certify that they are sufficient to pay the penalty of the bond, and are citizens of the United States.

5th. Bond to be dated.

Form No. 2.

Bond to be given by consular officers mentioned in schedule C of the act of the 18th August, 1856.

Know all men by these presents, that we, —— ——— and —— ———, are held and firmly bound to the United States of America in the sum of ——— thousand dollars, money of the said United States, to the payment whereof we bind ourselves, jointly and severally, our joint and several heirs, executors, and administrators.

Witness our hands and seals, this ——— day of ———, 18—.

The condition of the above obligation is such, that if the above bounden ——— ———, appointed ——— of the United States at ———, shall truly and faithfully discharge the duties of his said office, according to law; and shall truly and faithfully account for, pay over, and deliver up all fees, moneys, goods, effects, books, records, papers, and other property which shall come to the hands of the said ——— ———, or to the hands of any person for his use as such ————, under any law now or hereafter enacted, and that he will truly and faithfully perform all other duties now or hereafter lawfully imposed upon him as such ————, then this obligation to be void; otherwise, to remain in full force.

——— ———. [L. S.]

——— ———. [L. S.]

Signed, sealed, and delivered
in presence of—

———— ————,

———— ————.

The following instructions must be particularly observed and complied with:

1st. The christian names must be written in the body of the bond in full, and so signed to the bond.

2d. A seal of wax or wafer to be attached to each signature.

3d. Each signature must be made in the presence of two persons, who must sign their names as witnesses.

4th. The United States Attorney of the district in which the sureties reside must certify that they are sufficient to pay the penalty of the bond, and are citizens of the United States.

5th. Bond to be dated.

Form No. 2.

Bond to be given by consuls and commercial agents not mentioned in schedules B and C of the act of the 18th August, 1856.

Know all men by these presents, that we, ——— ——— and ——— ———, are held and firmly bound to the United States of America in the sum of ——— thousand dollars, money of the said United States, to the payment whereof we bind ourselves, jointly and severally, our joint and several heirs, executors, and administrators.

Witness our hands and seals, this ——— day of ———, 18—.

The condition of the above obligation is such, that if the above bounden ——— ———, appointed ——— of the United States at ———, shall truly and faithfully discharge the duties of his said office, according to law, and also shall truly and faithfully account for, pay over, and deliver up, all moneys, goods, effects, books, records, papers, and other property which shall come to the hands of the said ——— ———, or to the hands of any person for his use as such ———, under any law now or hereafter enacted, and that he will faithfully perform all other duties now or hereafter lawfully imposed upon him as such ———, then this obligation to be void; otherwise, to remain in full force.

——— ———. [L. S.]

——— ———. [L. S.]

Signed, sealed, and delivered,
in the presence of

——— ———,

——— ———.

The following instructions must be particularly observed and complied with:

1st. The christian names must be written in the body of the bond in full, and so signed to the bond.

2d. A seal of wax or wafer to be attached to each signature.

3d. Each signature must be made in the presence of two persons, who must sign their names as witnesses.

4th. The United States Attorney of the district in which the sureties reside must certify that they are sufficient to pay the penalty of the bond, and are citizens of the United States.

5th. Bond to be dated.

Form No. 3.

Form of a certificate to be executed jointly by the outgoing and incoming consular officers.

——— of the United States
at ——— (Date.)

We certify, on this the ——— day of ———, the services of A B ceased, and he is entitled to his salary, or fees, including said day; and that the services of C D commenced the day following, he having received the archives, as specified in the 79th section of the General Instructions.

——— ———.
——— ———.

Form No. 4.

Despatches and Enclosures.

Despatches are to be written in a fair, round hand, on cap paper, wide lines, with a margin one inch wide on each side of the paper. Marginal notes, indicating the subject-matter of the despatch, should invariably be placed upon the external edge of the paper; otherwise, when a series of despatches is bound, the inner references would be useless.

FORM No. 5.

Endorsement of a Despatch.

U. S. CONSULATE.

[Name of Consulate and date.]

[Name of Consul.]

No. —.

[Number of documents enclosed.]

Received ———.

[An abstract of the contents of the despatch is to be placed here in as few words as possible.]

FORM No. 6.

Endorsement of an Enclosure.

ENCLOSURE

With despatch No. —.

[Name or character of enclosure.]

No. —.

[Date.]

FORM No. 7.

Address of Envelopes.

CONSULATE OF THE U. S. OF AMERICA

at ————————.

To the

Secretary of State,
Washington,
D. C.

———

The words "Relief of Seaman," "Commerce," "Accounts," "Register," should be written at the left hand lower corner, when the despatch relates exclusively to either of these subjects.

Form No. 8.

RECORD OF TREASURY FEES.

Fees received at the United States Consulate at ———, from ——— to the ———, 18—.

Date.	No.	Name of vessel.	Name of the party paying the fee.	Nature of service rendered.	Amount of fees paid.		Remarks.

Note.—This form is to be followed by consular officers residing at seaports, and a transcript thereof transmitted to the Secretary of the Treasury, when the consular officer is entitled by law to a salary, otherwise to the Secretary of State, with quarterly returns of statement of fees, as per Form No. 44.

Form No. 9.

RECORD OF TREASURY FEES.

Fees received at the United States Consulate at ———, from ——— to the ———, 18—.

No.	Date.	Name of the firm or party for whom the service is rendered.	Signer of the oath, who must be one of the firm.	Nature of the service rendered.	Fees.

Note.—This form is to be followed by consular officers residing at inland places, and a transcript thereof transmitted quarterly to the Secretary of the Treasury, if the consular officer is entitled to a salary, otherwise to the Secretary of State.

Form No. 10.

PASSPORT BOOK.

No.	Date.	Name.	Last residence.	Place of birth.	Profession.	Evidence upon which the passport is granted.	Place for which a visa is given.	Description.	Signature of the person to whom the passport is granted.	Remarks.
								Age, Stature, Forehead, Eyes, Nose, Mouth, Chin, Hair, Complexion,		

Form No. 11.

Invoice Book.

Date of certificate.	Name of the vessel or party for whom service is rendered.	Where bound or whither sent.	Kind and character of the goods or merchandise.	Where produced.	Value, including costs and charges.

Form No. 12.

Register of Official Letters received at the U. S. Consulate at ——.

Name of the writer.	No.	Place and date of letter.	When received.	On what subject.	Number of enclosures.	Remarks.

Form No. 13.

Register of Official Letters sent from the U. S. Consulate at ——.

Date.	No.	To whom and to what place sent.	On what subject.	Number of enclosures.

Form No. 14.

Quarterly Return of the arrival and departure of American vessels at the United States Consulate at ————, from the ———— to the ————, inclusive.

No.	DATE.		VESSELS.										CARGOES.									
													INWARD.					OUTWARD.				
	Month.	Day.	Class.	Name.	Tonnage.	Where from.	When built.	Where built.	Where belonging.	Where bound.	Owners.	Masters.	Where produced.	Where manufact'd.	Description.	Quantity.	Value.	Where produced.	Where manufact'd.	Description	Quantity.	Value.

FORM No. 15.

Detailed List of Seamen or Mariners shipped, discharged, or deceased, at the Consulate of the United States at ——, from —— to ——, inclusive, and the payments made on account of each.

Date of discharge, shipment or decease.		Name of seaman or mariner discharged.	Name of seaman or mariner shipped.	Name of seaman or mariner deceased.	To what vessel belonging.	Amount of payments made.	

Form No. 16.

Statement of cases of relief afforded to destitute American seamen at the Consulate of the United States at ———, from ——— to ———, inclusive.

No.	Name of seaman.	Ship.	Master.	Owner.	To what port belonging.	Date of discharge or receiving relief.	Cause of discharge.	Date of leaving the consulate or of decease.	Remarks.	Moneys and extra wages received.		Wages refunded to seamen.	Amount disbursed.					Total.	Am't expended for same during previous qua'rs.	Grand total.
										Moneys.	Extra wages.		Clothing.	Board & lodging.	Medical aid.	Burial expenses.	Miscella. expenses.			
1	C. D.	Union.	A. B.	G. H.	Salem	Oct. 1	Sickness.	Nov. 22	.....	$15 00	$45 00	.....	$5 00	$3 00	$48 00	$4 00	.....	$60 00	.....	$60 00
2	E. F.	Casual, not discharged in this consulate.				Oct. 2	Wrecked.	Nov. 26	Belonged to ship —— lost at sea; reached this port in an open boat.	.....	.....	.....	2 00	2 00	52 00	4 00	.....	60 00	.....	60 00
3	M. O.	Union.	.....	.....	.....	Nov. 1	Sickness.	Nov. 12	.....	.....	45 00	$18 00	.....	.....	12 00	.....	.....	12 00	.....	12 00
										15 00	90 00	18 00	7 00	5 00	112 00	8 00	.....	132 00	.....	132 00

Note.—This form is to be observed by all consular officers, and sent quarterly to the Fifth Auditor of the Treasury, with the account current as per Form No. 17.

Form No. 17.

ACCOUNT CURRENT.

Dr. *The United States Government in account current with* ———, *U. S. consul at* ———. Cr.

Date.	Clothing, boarding, &c., by whom supplied.	To whom furnished.	On what account.	Vouchers.	Amount.	Date.	Extra wages and moneys received.	On whose account.	Vessel.	Amount.
1856.						1856.				
Oct. 1	A. B	C. D.....	Clothing.....	1	$5 00	Oct. 1	By 3 months' extra wages.....	C. D	Union.....	$45 00
2	....do	E. F.....	.....do.....	2	2 00	2	" amount moneys received.....	....do.....	....do.....	15 00
Nov. 1	G. H.....	C. D.....	Board & lod'g	3	3 00	Nov. 1	" 1 month's extra wages.....	M. O.....	....do.....	15 00
3	....do	E. F.....	.....do.....	4	2 00		" portion of two months' ditto.....	....do.....	....do.....	12 00
Dec. 31	I. J.....	C. D.....	Burial expe's	5	8 00					87 00
	....do	E. F.....					By amount of draft on the honorable ——— ———, Secretary of State, at fifteen days' sight, in favor of ——— ———, acceptance waived.....	.....	.....	45 00
	K. L	Sundry persons	Medical aid..	6	112 00					
					132 00					132 00

E. & O. E.

U. S. Consulate at ———,

December 31, 1856.

A B, *Consul.*

FORM No. 18.

Marine Note of Protest.

CONSULATE OF THE UNITED STATES OF AMERICA,
Port of ———,

On this ——— day of ———, in the year of our Lord eighteen hundred and ———, before me, ——— ———, consul of the United States of America for ——— and the dependencies thereof, personally appeared ——— ———, master of the ship or vessel called the ———, of ———, of the burden of ——— tons or thereabouts, and declared that on the ——— day of ——— last past, he sailed in and with the said ship from the port of ———, laden with ———, and arrived in the said ship at ———, on [here insert the day and hour;] and having experienced boisterous and tempestuous weather on the voyage ———

hereby enters this Note of Protest accordingly, to serve and avail him hereafter if found necessary.

——— ———,
Master.

Attested:
A B, *Consul.*

Form No. 19.

SHIP ——.

Marine Extended Protest of —— ——, *master*, ———, 18—.

Consulate of the United States of America,
Port of ——,

By this public instrument of declaration and protest, be it known and made manifest unto all to whom these presents shall come or may concern, that on the —— day of ——, one thousand eight hundred and ——, before me, —— ——, consul of the United States of America for ——, and the dependencies thereof, personally came and appeared —— ——, master of the ship or vessel called the ——, of ——, of the burden of —— tons, or thereabouts, then lying in this port of ——, laden with —— cargo, who duly noted and entered with me the said consul his protest, for the uses and purposes hereafter mentioned; and now, on this day, to wit, the day of the date hereof, before me, the said consul, again comes the said —— ——, and requires me to extend this protest; and together with the said —— —— also come A B, mate, G H, carpenter, K L and M O, seamen, of and belonging to the said ship, all of whom being by me duly sworn on the Holy Evangelists of Almighty God, did severally voluntarily, freely, and solemnly declare, depose, and state as follows, that is to say: That these appearers, on the —— day of ——, in their capacities aforesaid, sailed in and with the said —— from the port of ——, laden with ——, and bound to the port of ——; that the said ship was then tight, staunch, and strong; had her cargo well and sufficiently stowed and secured; had her hatches well caulked and covered; was well and sufficiently manned, victualled, and furnished with all things needful and necessary for a vessel in the merchant service, and particularly for the voyage she was about to undertake; that

[Here insert narrative of the facts of the voyage as they occurred, with full and minute particulars, with dates, latitude, longitude, &c.]

And these said appearers, upon their oaths aforesaid, do further declare and say: That during the said voyage they, together with the others of the said ship's company, used their utmost endeavors to preserve the said —— and cargo from all manner of loss, damage or injury. Wherefore the said —— ——, master, hath protested, as by these presents I, the said consul, at his special instance and request, do publicly and solemnly protest, against all and every person and persons whom it doth or may concern, and against the winds, and waves, and billows of the seas, and against all and every accident, matter and thing, had and met with as aforesaid, whereby, and by reason whereof, the said —— or cargo already has, or hereafter shall appear to have suffered or sustained damage or injury. And do declare that all losses, damages, costs, charges, and expenses that have happened to the said —— or cargo, or to either, are, and ought to be borne by those to whom the same by right may appertain by way of average or otherwise, the same having occurred as before mentioned, and not by or through the insufficiency of the said ——, her tackle or apparel, or default or neglect of this appearer, his officers, or any of his mariners.

Thus done and protested in the port of ——, this —— day of ——, in the year of our Lord one thousand eight hundred and ——.

In testimony whereof these appearers have hereunto subscribed their names, and I, the said consul, have granted to the said master this public instrument, under my hand and the seal of this consulate, to serve and avail him and all others whom it doth or may concern, as need and occasion may require.

[Seal of the Consul.]

Master.
A B, *Mate.*
G H, *Carpenter.*
K L, *Seaman.*
M O, do.

—— ——, *U. S. Consul.*

Form No. 20.

SHIP'S DAILY JOURNAL.

In which, on the deposit of the ship's register and papers, shall be recorded, for example, as follows:

Ship ——, of ——, —— Tons, —— —— Master.

Date of entry and of service rendered.						
1856.						
Jan.	2	Arrived —— day of ——, 18—. From ——. When built, ——, 18—. Where built, ——. Owners, —— —— and others. Cargo, inward, [here insert where produced or manufactured] .....value Cargo, outward, [here insert where produced or manufactured] .....value A B, master. C D, mate E F, 2d mate.	@...	....	.....	....
"	3	G H, boatswain, alias I J, sent to hospital. K L, carpenter, discharged; wages paid, $50; 3 months' extra wages, at $20, $60.....	.....	....	$110	00
"	2	M N, steward, reported to have been lost overboard at sea, (or to have died at sea,) Dec. 21, 1856, wages paid.....	.....	....	16	00
"	8	O P, cook, reported to have deserted; amount of wages forfeited to the U. S.	.....	....	50	00
		Q R, seaman. &c., &c.				
"	20	Shipped for voyage to ——. —— ——, boatswain. —— ——, carpenter. —— ——, steward. —— ——, cook.				
"	21	Register and papers delivered to master, bound to ——.				

Note.—Should any of the seamen or mariners have died at sea, or have been lost overboard, on the passage, the fact will be reported at once by the master, and a note thereof made opposite to the name of such person so deceased or lost; as, for example, see Steward. Should any seaman or mariner be discharged, or desert, a similar note of the fact must be made opposite to such deserter's or discharged seaman's name; as, for example, see Carpenter and Cook. In case any seaman or mariner has taken the name of any other seaman or mariner, who may have deserted or otherwise absented himself, after the clearing of the vessel, in the United States or elsewhere, such seaman or mariner's correct and proper name must be entered opposite the name of the seaman or mariner so deserting or absenting himself; as, for example, see Boatswain. And in the event of the seaman or mariner's taking the name of another seaman or mariner as aforesaid, entering the hospital, being discharged, or deserting, the order to the hospital, certificate of discharge or desertion, and consular returns must contain the name of said seaman or mariner so taking the place of the absconding seaman; as, for example, see Boatswain.

FORM No. 21.

Names of all deceased American citizens, including seamen or mariners, together with the value of the personal effects belonging to them, and taken possession of by or deposited with —— ———, U. S. consul at ———, from ——— to ———, inclusive.

Date of decease.		Names of persons.	Of what place a native or resident.	If a seaman, to what vessel belonging.	Where deceased.	Value of effects.	Disposition made thereof.

FORM No. 22.

CERTIFICATE TO INVOICE.

Foreign owner's oath, where goods, wares, or merchandise, have been actually purchased.

I, —— ———, do solemnly and truly swear, that the goods, wares, or merchandise described in the invoice now produced, and hereunto annexed, were actually purchased for my account, or for account of myself and partners in the said purchase; and that said invoice contains a true and faithful account of the actual cost thereof, and of all charges thereon; and that no discounts, bounties, or drawbacks are contained in the said invoice but such as have been actually allowed on the same.

———— ————.

Sworn to and subscribed before me, at ———, the —— day of ———, A. D. 18—, and of the independence of the United States the ———: and I do further certify, that I am satisfied that —— ——, who subscribes the foregoing oath, is the person he represents himself to be; that he is a credible person; and that the statements made by him under said oath (or affirmation, as the case may be) are true.

———— ————,

[L. S.] *U. S. Consul.*

Form No. 23.

CERTIFICATE TO INVOICE.

Foreign manufacturer or owner's oath, in cases where goods, wares, or merchandise have not been actually purchased.

I, ——— ———, of ———, do solemnly and truly swear, that the invoice now produced, and hereunto annexed, contains a true and faithful account of the goods, wares, or merchandise therein described at their market value at ——— at the time the same were (procured or manufactured, as the case may be,) and of all charges thereon; and that the said invoice contains no discounts, bounties, or drawbacks, but such as have been actually allowed.

——— ———.

Sworn to and subscribed before me, at ———, the —— day of ———, A. D. 18—, and of the independence of the United States of America the ———: and I further certify, that I am satisfied that ——— ———, who subscribes the foregoing oath, is the person he represents himself to be; that he is a credible person; and that the statements made by him under said oath (or affirmation, as the case may be) are true.

——— ———,

[L. S.] *U. S. Consul.*

Form No. 24.

Consular certificate of the value of currency.

I, ——— ———, consul of the United States of America, do hereby certify, that the true value of the currency of the ——— of ———, in which currency the annexed invoice of merchandise is made out, is —— cents, estimated in American or Spanish silver dollars.

——— ———.

FORM No. 25.

Voucher as to difference in the rates of exchange between the several foreign ports and countries and the United States.

(Name of place and date.)

I, ——— ———, being a banker, (broker, or merchant, as the case may be,) and doing business as such at the place aforesaid, do hereby certify, that I am acquainted with the rate of exchange at this day between said place and the United States of America; and a bill of exchange or draft drawn here, payable at New York, cannot be sold for a greater sum than ——— cents upon the dollar upon the face of said draft.

——— ———,

Banker, (Broker, or Merchant.)

(Name of place and date.)

I, ——— ———, (the officer drawing the bill or draft,) do hereby certify, that a bill of exchange or draft, payable at New York, could not be sold for ready payment on this day, at this place, for more than ——— cents upon the dollar upon the face of said draft or bill, and that is the value of the difference of exchange between the two countries at this date.

(To be signed by the consular officer in his official capacity.)

FORM No. 26.

Voucher for boarding and lodging.

CONSULATE OF THE UNITED STATES AT ———,

To ——— ———, DR.

18—.

For boarding and lodging ——— ———, a destitute American seaman, from ——— day of ——— to ———, at ——— per day [or week] $

The above bill is correct.

——— ———, *Seaman, (or Mariner.)*

Received, ———, 18—, from ——— ———, U. S. consul, the sum of ——— dollars, in full of the above bill.

——— ———.

Form No. 27.

Voucher for hospital expenses and medical aid.

Consulate of the United States of America at ———,

To ——— ———, Dr.

For medical aid and attendance supplied the following named destitute American seamen admitted in and discharged from [here insert the name of the hospital] by order of —— ———, consul at ———, for the quarter ending ———, 18—:

When admitted. 1856.		Name of seaman.	Date of discharge or decease.		Number of days attended, say at $1 per day.	Amount.	
October .	6	C. D.	November	22	48	$48	00
"	"	E. F.	"	26	52	52	00
November	1	M. O.	"	12	12	12	00
						$112	00

———, 18—. Received of ——— ———, U. S. consul, the sum of ——— dollars and ——— cents, in full of the above bill.

——— ———.

Form No. 28.

Voucher for Clothing.

Consulate of the United States of America at ———,

To ——— ———, Dr.

18—. For clothing furnished to ——— ———, a destitute American seaman, viz:
(Here name all articles of clothing furnished, including cost thereof) - - - - - - $

———

$

Delivered in presence of— Correct:

—— ——. —— ——,

—— ——. *Seaman.*

——— ———, ———, 18—. Received of ——— ———, U. S. consul, the sum of ——— dollars and ——— cents, in full of the above bill.

——— ———.

FORM No. 29.

Receipt for two-thirds extra wages.

CONSULATE OF THE UNITED STATES OF AMERICA AT ———,

———, 18—.

Received of —— ——, United States consul at ———, the sum of ——— dollars, being the amount (or remainder, as the case may be) of the two months' extra wages to which I am entitled under the acts of the 28th February, 1803, and of August 18, 1856, on my discharge from the ——— of ———, —— —— master.

——— ———.

FORM No. 30.

Consul's certificate given to masters when required to take to the United States destitute American seamen.

CONSULATE OF THE UNITED STATES OF AMERICA,

———, 18—.

I, the undersigned, consul of the United States of America for ———, and the dependencies thereof, do hereby certify that I have sent to ——— by the ———, whereof —— —— is master, A B, C D, and E F, three destitute American seamen, and have agreed with the said master that on presentation of this certificate at the Treasury Department, bearing an endorsement of the collector of customs at the port of ———, aforesaid, that the seamen herein mentioned have arrived in said vessel within his district, he shall and will be entitled to receive the sum of thirty dollars for their passage, being the sum of ten dollars for each seaman, in conformity to the laws of the United States made and provided for the relief of destitute American seamen.

Given, &c.

———. ———,

U. S. Consul.

Form No. 31.

Consul's certificate, given to masters when required to take to the United States more than two seamen for one hundred tons burden of a vessel.

Consulate of the United States of America,

———, 18—.

I, the undersigned, consul, &c., &c., do hereby certify that I have sent to ———, by the ———, whereof ——— ——— is master, G H and I J, two destitute American seamen over and above the number said vessel is by law required to take, and have agreed with the said master that on presentation of this certificate at the Treasury Department, bearing the endorsement of the collector of customs at the port of ———, aforesaid, that the seamen herein mentioned have arrived in said vessel within his district, that he shall and will be entitled to receive the sum of ——— dollars for their passage, being the sum of ——— dollars for each seaman, there being no other American vessel now in port bound for the United States in which to send home said seamen, in conformity to the laws of the said States, made and provided for the relief of destitute American seamen, and of section 218, chapter 18, of the Instructions to Consuls.

Given, &c.

——— ———.

U. S. Consul.

Form No. 32.

Certificate of attending Physician.

———, ———, 18—.

I hereby certify, that A B, C D, and E F, sick American seaman, were attended by me during the quarter ending the ——— day of ———, 18—, and that the health of the said named persons was such during that time that it would have endangered their lives to have sent them on the homeward voyage.

——— ———, M. D.

Form No. 33.

FOR STATING AN ACCOUNT UNDER THE ACT OF AUGUST 18, 1856, FOR SALARY AND FEES, EXCLUSIVE OF SEAMEN'S WAGES OR EXPENDITURES FOR THEM.

The United States Government in account for fees with —— ——, (*Consul General, Consul, or Commercial Agent,*) *at* ———,
under the act of August 18, 1856.

Dr.				Cr.			
1856.				1856.			
Dec. 31	To amount of my salary as (consul general, consul, or commercial agent,) from October 1 to December 31, 1856, at $7,500 per annum	.....	$1,875 00	Dec. 31	By amount of money received from sundry persons, during said period, and applied towards my salary, as per return of fees herewith, viz:		
					For discharging and shipping seamen	$100 50	
					" tonnage fees	150 00	
					" noting and extending marine protests...	50 25	
					" issuing warrants of survey.....	25 00	
					" authenticating copies of documents	120 00	
					" do. signatures	80 00	
					" certificates.....	250 00	
					" recording and filing documents.....	25 00	
					" miscellaneous fees, consisting of letters, seal and signature, orders, acknowledgments, declarations, oaths, &c...	300 75	
							$1,102 00
					By amount of my draft on the honorable ——, Secretary of State, at fifteen days' sight, acceptance waived	.....	773 00
			$1,875 00				$1,875 00

U. S. Consulate at ———,
December 31, 1856.

—— ——, *Consul.*

FORM No. 34.

Oath of consul to accompany transcript of register of fees, Form No. 8.

———— ————.

On the ——— day of ———, before me, the undersigned, personally appeared —— ———, U. S. consul at ——, and made oath that the above and foregoing account, or report of fees, is a full and perfect transcript of the register which he is by law required to keep; that the same is true and correct, and contains a full and accurate statement of all fees received by him as such consular officer, or for his use, for his *official services*, to the best of his knowledge, during the period of time therein mentioned.

———— ————, *U. S. Consul.*

Sworn to before me,

—— ————.

FORM No. 35.

Certificate to be executed and to accompany each quarterly account, Form No. 33.

CONSULATE OF THE UNITED STATES AT ———,

————, 18—.

I certify that I have not been absent from the district of my Consulate (or Commercial Agency, as the case may be) for a longer period than ten days within the quarter embraced in the above and foregoing account.

———— ————.

If absent for more than ten days at any one time, the consular officer should state the day his absence commenced and the day it ceased.

FORM No. 36.

Certificate to be executed by each consular officer, and to accompany his first account.

CONSULATE OF THE UNITED STATES, AT ———.

————. 18—.

I, —— ———, (consul or commercial agent, as the case may be,) do certify that I entered upon the duties of this office on the ——— day of ———, 18—, and that I have since then continued in charge of the said office uninterruptedly to the present time.

————— ————,

U. S. Consul.

Form No. 37.

Certificate to be used in prosecutions.

United States Consulate,
, 18—.

Sir: A penalty is supposed to have been incurred by [*James Johnson,*] of [*New Orleans, commander of the brig Jackson, of that place,*] for a violation of the ——— section of the act of ———, (— U. S. Statutes at Large, p. —,) for [*refusing to deposit the papers of the said brig with such consul,*] and for which he is liable to be prosecuted in my name, as consul of the United States for this port.

You, or the proper law officer of the United States, are authorized, at their proper costs and charges, to institute in my name a suit to recover the same for their use and benefit, and the same to control, and to discharge, according to law, in such court having jurisdiction thereof, as you or he shall deem proper.

Witness my hand and consular seal.

———— ————,
[L. S.] *U. S. Consul.*

Hon. —— ——,
Secretary of State.

Form No. 38.

Certificate given to master on deposit of a ship's register or papers.

Consulate of the United States of America at ———,
———, 18—.

I, the undersigned, consul of the United States of America for ———, and the dependencies thereof, do hereby certify that —— ——, master of the ———, has duly deposited in this consulate the register of the said ———, together with the crew list and shipping articles.

Given under my hand and the seal of this consulate, the day and year above written.

[L. S.] —— ——,
U. S. Consul.

FORM No. 39.

Certificate given to master on delivery of a ship's register and other papers.

CONSULATE OF THE UNITED STATES OF AMERICA AT ———,

———, 18—.

I, the undersigned, consul of the United States of America for ———, and the dependencies thereof, do hereby certify that —— ——, master of the ship or vessel called the ———, of ———, having this day exhibited to me the clearance of said vessel from the proper authorities of this port, I have delivered to him, the said master, the register and papers of the said vessel, duly deposited in this consulate on the day of ———, 18—.

Given under my hand and the seal of this consulate, the day and year above written.

[L. S.] —— ——,

U. S. Consul.

Form No. 40.

RETURN OF EXTRA WAGES.

——— ———, *U. S. consul at* ———, *in account with the U. S. Government, for amount of the one month's extra wages received on account of discharged seamen, from* ——— *to* ———, 18—.

Dr. Cr.

Date.		Name of seaman or mariner.	Vessel.	Amount extra wages received.		Date.		Disposition made of extra wages received.	Amount.	
1856.						1856.				
October	1	A B.....	Union.....	$15	00	Decem'r	31	By amount credited in account for the relief		
	4	C D.....	....do.....	15	00			of destitute American seamen, for quarter		
Decem'r	31	E F.....	Boxer.....	20	00			ending December 31, 1856.....	$30	00
								By balance in my hands.....	20	00
				$50	00				$50	00

U. S. Consulate at ———,
December 31, 1856.

———— ————, *Consul.*

Form No. 41.

Certificate of discharge of one or more seamen, to be attached to crew list and shipping articles.

Consulate of the United States of America at ———,
———, 18—.

I, the undersigned consul, &c., &c., do hereby certify, that the *undernamed* seamen or mariners have been duly discharged at this port from the ——— of ———, according to law; —— ——, the master of the said ———, having deposited in this consulate the extra wages as hereinafter set opposite to their names, respectively, viz:

Date of discharge.	Name of seaman or mariner.	Number of months' extra wages.	Amount.

Given, &c.

——— ———.

Form No. 42.

Declaration and oath of master to not being able to procure two-thirds of a crew of protected American seamen.

Consulate of the United States of America at ———,
———, 18—.

I, the undersigned consul, &c., &c., do hereby certify, that on the day of the date hereof, before me personally appeared ——— ———, master of the ———, and made oath, in due form of law, that he has been unable to obtain at this port two-thirds of a crew of protected American seamen to perform the voyage in said ship hence to ———.

Given, &c., &c.

[L. S.] ——— ———,
Consul.

——— ———, *Master.*

Form No. 43.

Certificate of oath and declaration of master to desertion of seamen or mariners.

Consulate of the United States of America at ———,

———, 18—.

I, the undersigned consul, &c., &c., do hereby certify, that, on the day of the date hereof, before me, personally appeared —— ——, master of the ship ———, of ———, and made oath, in due form of law, that the seamen or mariners hereinafter named, and who are noted on the crew list of the said vessel as deserters, absconded from the said ship ———, at the ports or places hereinafter named, without his knowledge or consent, at or about the times hereinafter placed opposite their names respectively.

And the said —— ——, master, further declared that the said seamen or mariners, deserters as aforesaid, were duly shipped at the time and place and for the monthly wages and advance hereinafter stated, and as per contract of shipping articles; that the wages advanced abroad, expenses incurred on account of desertion, goods supplied to said seamen or mariners, as hereinafter stated opposite to their names respectively, were honestly, justly, and truly advanced, expended, incurred, and supplied, as stated, to and for account of said seamen or mariners; and he doth likewise declare, that the balance of wages due on account of said seamen or mariners, deserters as aforesaid, placed hereinafter opposite their respective names, as aforesaid, is the true, correct, and just balance which the said seamen or mariners would have been entitled to had they been duly discharged and paid off, for the period of time mentioned, and for which he has to account to the collector of customs of the port where the crew of said vessel are accounted for, as forfeited wages, to become the property of the United States.

And I, the said consul, for myself, do hereby certify that —— ———, master aforesaid, exercised due diligence, with my co-operation and assistance, to recover and secure such of said seamen or mariners as deserted at this port, but without success.

Names of deserters.	Date of shipment.	Place of shipment.	Monthly wages.	Place and time of desertion.			Time of service on board.		Wages due to day of desertion.		Advance wages.		Wages or moneys advanced abroad.		Expenses incurred on account of desertion.		Goods supplied.		Amount of wages forfeited to become the property of the U. S.	
				Port or place.	Month.	Day.	Month.	Day.	Dolls.	Cts.	Dolls.	Cts.	Dolls.	Cts.	Dolls.	Cts.	Dolls.	Cts.	Dolls.	Cts.

Given, &c., &c.

——— ———, *U. S. Consul.*

Form No. 44.

Quarterly statement of fees received at the United States Consulate at ———, from the —— to the ——, inclusive.

18—	Date of arrival.		Name of vessel.	Burden.	Crews.								Tonnage fees.		Noting marine protest.	Extending marine protest.		Issuing warrant of survey on vessels, hatches, cargo, and stores, or either.		Authenticating copies of—								
					Inward.		Outward.		Discharged.		Shipped.									Note of marine protests.		Extended marine protest		Call, warrant, and report of survey on vessel, hatches, cargo, and stores, or either.		Letters, inventories, advertisements, accounts of sales of vessel, cargo, stores, or other documents.	
No.	Mo.	Day.		Tons.	No. Ams.	No. Fors.	No. Ams.	No. Fors.	No.	Amt.	No.	Amt.	Dols.	Cts.	Dols.	Dols.	Cts.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.

Form No. 44—Continued.

Authenticating signatures to—				Certificates.						Recording documents in consular records.		Filing documents in consulate.		Letters to authorities; seal and signature of consul to clearance and papers, roll, bill of health, &c.		Orders to send, and release men from prison.		Acknowledgments of masters or merchants to bottomry bonds, bills of sale, and other instruments of writing.		Declarations and oaths of masters to ship's bills, inventories, &c.		Total of fees received on account of this vessel.		Date of clearance.		Remarks.
Report of survey on vessels, hatches, cargo, stores, or either.		Estimate of repairs of vessel; account sales of vessel, cargo, and stores, or either, or other documents.		To crew list and shipping articles; of desertions, deaths, and of protected American seamen.		Debenture; invoice; currency; ownership; advertisements on bottomry; sale of vessel, cargo, &c.		Deviation from voyage; cancelling ship's register; appointing new master; sea letter; consul's decision and award on conduct of crew, &c.																			
No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	Dols.	Cts.	Mo.	Day.	

Note.—The above form is intended to embrace *only* the fees received on account of vessels for *official services*, and no fee is to be included therein not chargeable to, or paid on account of, the vessel for such official services, except *debenture*, *invoice*, and *currency* certificates, which, although generally paid by the merchant and not chargeable to the vessel, will be included when they refer to the goods discharged from, or shipped by, the vessel named in the return. The fees called for under different heads *must be* added up in their columns respectively; the additions of the several columns, will show the aggregate amount of fees received under the head of "Total of fees received on account of this vessel."

Vessels remaining in port at the end of the quarter, and over to the succeeding quarter, must be noticed in the returns under the head "*date of clearance*," as "in port." These vessels so remaining over will head the list in the next returns *without being numbered*.

Form No. 45.

Extract from transcript of fee book of those fees not enumerated and contained in return of fees prescribed in Form No. 44, received at the consulate of the United States at ———, from ——— to ———, inclusive.

No.	Date.		Name of vessel.	Name of party paying the fee.	Nature of the service rendered.	Amount.	
20							
31							
50							
60							

U. S. Consulate at ———,
December 31, 18—.

Note.—The number inserted in the above Form must correspond with the number of the fee in the transcript of fee book.

Form No. 46.

CONSULAR PASSPORT.

Consulate of the United States of America,

To all to whom these presents shall come, greeting:

Age, years.
Stature,
Forehead,
Eyes,
Nose,
Mouth,
Chin,
Hair,
Complexion,
Face,

I, the undersigned, consul of the United States of America for ———, and the dependencies thereof, hereby request all whom it may concern, to permit safely and freely to pass, —— ———, a citizen of the United States, and in case of need to give him all lawful aid and protection.

Given under my hand and the seal of the consulate, at ———, this —— day of ———, A. D. 18—, [seal.] and in the year of the independence of the United States ———.

—— ——.

Form No. 47.

Abstract of the names and description of persons to whom Passports have been issued at the Consulate of the United States at ———, from ——— to ———, inclusive.

No.	When issued.		To whom issued.	DESCRIPTION.										Remarks.
				Age.	Stature.	Forehead.	Eyes.	Nose.	Mouth.	Chin.	Hair.	Complexion.	Face.	

Note.—This return to be made every six months to the Department of State.

FORM No. 48.

Consul's certificate, relating to seamen, given to masters at their own request.

CONSULATE OF THE UNITED STATES OF AMERICA AT ———,

———, 18—.

I, the undersigned, consul, &c., &c., do hereby certify, that ——— ———, who has been duly shipped before me in the ———, of ———, ——— ——— master, was sent to the hospital at this port by me upon his own application, and, after being examined by the attending physician of the said hospital, was pronounced a fit subject and duly admitted to be cured of the ——— disease. That, contrary to the advice and opinion of the said attending physician, the said ——— ——— left the hospital a few days thereafter, insisting that he was well and able to do seaman's duty and return home. That, in consequence of his ill health and liability to go upon the sick list at sea, several masters of American vessels refused to ship him before he entered on board of the ——— as aforesaid; and this certificate is granted to Captain —— ———, at his own request, to protect him hereafter should the said —— ———, in consequence of the disease aforesaid, be unable to perform the duty required of him as a seaman on the voyage from this port to ———.

Given, &c., &c.

——— ———, *U. S. Consul.*

FORM No. 49.

Consul's decision and award in cases of protest against masters, passengers, or crew.

CONSULATE OF THE UNITED STATES OF AMERICA AT ———,

Whereas ——— ———, master of the ———, of ———, recently arrived in this port of ———, from ———, has entered formal protest on the books in this consulate, under date of the —— ———, 18—, against

———

———

passengers in the said ——— on the passage aforesaid, named in the said protest, for mutinous conduct on the high seas, and against carrying them to ———. And whereas the officers, crew, and part of the passengers of said vessel have likewise entered solemn protest, under date of ——— ———, against the said named persons, and against their proceeding with them in the said vessel:

Now, therefore, I, the undersigned consul of the United States of America, having entertained the complaint and grievances set forth in the said protest, having first required and obtained from the said master a specified list of the charges preferred by him against the said ——— passengers, consisting of —— distinct charges, and having duly sworn and respectively examined the witnesses to same, in number —— persons, who deposed to the truth of the said charges as follows, to wit: ——— to the first accusation; ——— to the second; ——— to the third; ——— to the fourth; ——— to the fifth; ——— to the sixth. And having furthermore admitted and duly sworn and respectively examined ——— persons ——— on the part of said ——— accused, and having duly and impartially weighed the testimony adduced on both sides, do hereby adjudge and declare as follows, that is to say:

[Here state the decision and award of the consul.]

Given at this consulate, this ——— day of ———, in the year of our [SEAL.] Lord one thousand eight hundred and fifty———.

——— ———, *U. S. Consul.*

Form No. 50.

Certificate authenticating copies of call, warrant, and report of survey.

CONSULATE OF THE UNITED STATES OF AMERICA AT ———,

———, 18—.

I, the undersigned, consul, &c., &c., do hereby certify, that the foregoing call, warrant, and report of survey, and the certificate thereto signed ——— ———, U. S. consul, numbered 1, 2, 3, 4, hereto annexed, are true and faithful copies of the originals filed in this consulate, the same having been carefully examined by me and compared with the said originals, and found to agree therewith word for word and figure for figure.

Given, &c.

——— ———, *U. S. Consul.*

Form No. 51.

Letter to authorities in cases of sinking vessels.

CONSULATE OF THE UNITED STATES OF AMERICA AT ———,

———, 18—.

SIR: The surveyors of the ship ———, of ———, ——— ——— master, having recommended that the ship should be towed or hauled into shoal water for the safety of the vessel and cargo, as the water is gaining rapidly on the pumps, I have the honor to request that you will please have designated to the master of the ———, such moorings, in shoal water, in the harbor of ———, that, in the event of the sinking of the ship, the mooring grounds in the bay will not sustain injury.

I have the honor to be, very respectfully, &c.,

——— ———, *U. S. Consul.*

To ——— ———,

Captain of the port, (or other authority.)

FORM No. 52.

Foreign owner's oath, where goods have been actually purchased, to be taken before a consular officer of the United States in the British Provinces.

I, ——— ———, do solemnly and truly swear, that the goods, wares, or merchandise described in the invoice now produced and hereunto annexed, were actually purchased for my account, or for account of myself and partners in the said purchase; and that said invoice contains a true and faithful account of the actual cost thereof, and of all charges thereon; and that no discounts, bounties, or drawbacks are contained in the said invoice but such as have been actually allowed on the same; and that said goods are the growth or product of the province of ———.

——— ———.

Sworn to and subscribed before me, at ———, the —— day of ———, A. D. 18—, and of the independence of the United States of America the ———; and I do further certify, that I am satisfied that —— ——, who subscribes the foregoing oath, is the person he represents himself to be; that he is a credible person; and that the statements made by him under said oath (or affirmation, as the case may be) are true.

[L. S.] ——— ———,

U. S. Consul.

FORM No. 53.

Foreign owner's oath, in cases where goods have not been actually purchased, to be taken before a consular officer of the United States in the British Provinces.

I, ——— ———, of ———, do solemnly and truly swear, that the invoice now produced, and hereunto annexed, contains a true and faithful account of the goods therein described, at their market value at ——— at the time the same were [procured or manufactured, as the case may be,] and of all the charges thereon; and that said invoice contains no discounts, bounties, or drawbacks, but such as have been actually allowed; and that the said goods are the growth or product of the province of ———.

——— ———.

Sworn to and subscribed before me, at ———, the —— day of ———, A. D. 18—, and of the independence of the United States of America the ———; and I do further certify, that I am satisfied that —— ——, who subscribes the foregoing oath, is the person he represents himself to be that he is a credible person; and that the statements made by him under said oath (or affirmation, as the case may be) are true.

[L. S.] ——— ———,

U. S. Consul.

FORM No. 54.

Foreign owner's oath, where goods have been actually purchased, to be taken before two respectable merchants, where there is no consular officer of the United States in the British Provinces.

I, ——— ———, do solemnly and truly swear, that the goods described in the invoice now produced and hereunto annexed, were actually purchased for my account, or for account of myself and partners in the said purchase; and that the said invoice contains a true and faithful account of the actual cost thereof, and of all charges thereon; and that no discounts, bounties, or drawbacks are contained in the said invoice, but such as have been actually allowed on the same; and that said goods are the growth or product of the province of ———.

——— ———.

Sworn to and subscribed before us, residents at ———, in the province of ———, the —— day of ———, A. D. 18—; and we further certify, that we are satisfied that —— ——, who subscribes the foregoing oath, is the person he represents himself to be; that he is a credible person; and that the statements made by him under said oath (or affirmation, as the case may be) are true.

——— ———.

——— ———.

FORM No. 55.

Foreign owner's oath, in cases where goods have not been actually purchased, to be taken before two respectable merchants, where there is neither a consul, vice consul, nor commercial agent of the United States in the British Provinces.

I, ——— ———, of ———, do solemnly and truly swear, that the invoice now produced, and hereunto annexed, contains a true and faithful account of the goods therein described, at their market value at ——— at the time the same were (procured or manufactured, as the case may be,) and of all the charges thereon; and that the said invoice contains no discounts, bounties, or drawbacks, but such as have been actually allowed; and that the said goods are the growth or product of the province of ———.

——— ———.

Sworn to and subscribed before us, residents at ———, in the province of ———, the —— day of ———, A. D. 18—; and we further certify, that we are satisfied that —— ——, who subscribes the foregoing oath, is the person he represents himself to be; that he is a credible person; and that the statements made by him under said oath (or affirmation, as the case may be) are true.

——— ———.

——— ———.

FORM No. 56.

Form of certificate to be issued to American owners of foreign-built vessels.

I, ——— ———, consul of the United States for the port of ———, do hereby certify, that the within bill of sale, bearing date the —— day of ———, of the ——— [here describe the vessel, her tonnage, denomination, name, &c.,] sold and transferred by —— ——, to —— ——, is, in form and substance, valid and effective in law, and has been duly recorded in my office; and that the said ——— ——— [naming the owners] are citizens of the United States.

As witness my hand and seal of the consulate, this —— day of —— in the year of our Lord 18—.

[L. S.] ——— ———,

Consul.

Form No. 57.

Mode of calculating consular salaries.

Consular salaries must be calculated by the quarter, and for both days inclusive. The same mode of calculation must be observed with regard to fractions of quarters. The following calculations are given as examples, viz:

No. 1.

For amount of my salary as consul at ——, from 1st January to 31st March, 1856, inclusive, being one quarter, at the rate of $3,500 per annum $875 00

EXAMPLE No. 2.

FRACTION OF A QUARTER.

* * * * * from 1st April to 20th June, 1856, inclusive, being 81 days of the quarter ending 30th June, 1856, at the rate of $3,500 per annum $778 84

To be calculated as follows, viz:

April, 30 days,				April, 30 days,	
May, 31 "				May, 31 "	
June, 30 "				June, 20 "	
91 "	:	$875.00	: :	81	

81

87500
7000

91) 7087500 (778.84
637

717
637

805
728

770
728

490
364

56
91

EXAMPLE No. 3.

For fraction of quarter ending 30th September, at $3,500 per annum:

July,	31 days,			July,	31 days,
August,	31 "			August,	31 "
September,	30 "			September,	20 "
92 "	:	$875.00	: :	82	

EXAMPLE No. 4.

* * * * * from 1st July to 20th December, 1856, inclusive, 5 months, 20 days, at the rate of $3,500 per annum $1,645 38

Thus stated—

Quarter ending 30th September, 1856 ..... $875 00

Fraction quarter ending 31st December, 1856 ..... 770 38

October,	31 days,			October,	31 days,
November,	30 "			November,	30 "
December,	31 "			December,	20 "
92 "	:	$875.00	: :	81 "	

FORM No. 58.

Of account of expenses incurred at the consulate of the United States at ———.

The United States, for expenses authorized under the appropriation "For the purchase of blank books, stationery, arms of the United States, presses, and flags, and for the payment of postages for the consuls of the United States," to ——— ———, consul at ———, DR.

	For stationery, viz:	Voucher.	$	
	For —— reams ruled fools-cap paper for official correspondence - - - - - - -			
	For —— reams letter paper for official correspondence - - - - - - - - - -			
	For —— reams folio post paper, for returns			
	For —— blanks for returns, &c., prescribed by the Department of State - - - -			
	For —— sealing wax - - - - - - - -			
	For —— wafers - - - - - - - - - -			
	For —— quills, pens, and ink - - - -			
	For —— envelopes - - - - - - - - -			
	For —— record books - - - - - - - -			
*	For a seal of the U. S. Consulate - - -			
*	For a seal press - - - - - - - - -			
*	For a flag of the United States - - -			
*	For the arms of the United States - -			
	For a flag-staff and fixtures - - - - -			
	For postages on official correspondence, from ——— to ———, inclusive - - -			
	For freight and charges on boxes and packages from the Department of State - -			

* NOTE.—These are to be purchased only when not supplied by the Department, and in cases where there is not time to make application to it for them.

For any other expenditures, authorized by the Department, separate accounts are to be rendered. Accounts to be endorsed with the name of the consul and the consulate, consular expenses, and the dates of commencement and termination.

Form No. 59.

Call of survey on a vessel.

No. 1. ———, ———, 18—.

——— ———, Esq.,

United States consul at ———.

Sir: The ship ———, under my command, arrived at this port the ——— instant from ———, laden with ———, in a damaged and leaky condition, and I have, therefore, to request that you will please call a survey upon the said ship, in order to ascertain her present state and condition, and what had best be done for the interest of the parties concerned.

Very respectfully, &c.,

——— ———,

Master.

Form No. 60.

Warrant to survey a vessel.

No. 2.

Consulate of the United States of America at ———,

———, 18—.

Messrs.

A B, Master of the ship ———, of ———.

C D, Master of the ship ———, of ———.

E F, Master ship-carpenter at ———.

Gentlemen: Application having been made to this consulate by ——— ———, master of the ship ———, of ———, of the burden of —— tons, or thereabouts, for a survey upon the said ship, in consequence of having sustained damages and injuries in the prosecution of her voyage from ——— to this port, laden with ———, whereby she became ———, you are hereby respectfully requested to repair alongside and on board the said ship, and, after a careful and minute examination and survey of every visible part of her hull, spars, sails, and rigging, report to this consulate, under your own hands, in writing, her present state and condition, and what, in your opinion, had best be done for the interest of the parties concerned.

Given under my hand and the seal of this consulate, the day and year above written.

{ Seal of the consulate. }

——— ———,

U. S. Consul.

Form No. 61.

Report of survey on a vessel.

No. 3.

Pursuant to the accompanying warrant of survey to us directed by ——— ———, U. S. consul at ———, we, the undersigned, repaired alongside and on board of the ship ———, of ———, of the burden of —— tons, or thereabouts, recently arrived in this port from ———, in a damaged and leaky condition, laden with ———, and after a careful and minute examination of every visible part of her hull, spars, sails, and rigging, do report as follows, viz:

We therefore recommend, in order to a further examination, and to ascertain, if possible, the cause and extent of the leak or leaks, that the cargo be discharged forthwith.

In confirmation of which we are willing, if required, to attest.

Given under our hands at ———, this —— day of ———, A. D. 18—.

——— ———,
Master of the ship ———, *of* ———.

——— ———,
Master of the ship ———, *of* ———.

——— ———,
Master ship-carpenter at ———.

Received ——— dollars for holding the above survey.

——— ———.
——— ———.
——— ———.

Form No. 62.

Consul's certificate authenticating signatures of surveyors.

No. 4.

Consulate of the United States of America at ———,
———, 18—.

I, the undersigned, consul, &c., &c., do hereby certify that the foregoing are the true and genuine signatures of —— ———, —— ———, and —— ———, surveyors, appointed by me, of the ship ———, of ———, and as such are entitled to full faith and credit.

Given, &c., &c.

——— ———.

FORM No. 63.

Second call of survey on a vessel.

No. 1. ———, 18—.

———, Esq.,

United States consul at ———.

SIR: The cargo of the ship ———, of ———, under my command, being now discharged, I have therefore respectfully to request that you will please call a second survey on the ship ———, in order to a further examination, and to ascertain, if possible, the cause and extent of the leak or leaks.

Very respectfully, &c.,

———,

Master.

FORM No. 64.

Second warrant to survey a vessel.

No. 2.

CONSULATE OF THE UNITED STATES OF AMERICA AT ———,

———, 18—.

Messrs.

A B, Master of the ship ———, of ———.

C D, Master of the ship ———, of ———.

E F, Master ship-carpenter at ———.

GENTLEMEN: Application having been made to this consulate by ——— ———, master of the ship ———, of ———, of the burden of ——— tons, or thereabouts, for a second survey on the said ship, her cargo having been discharged, you are hereby respectfully requested to repair on board of the said ship, and, after a further careful examination and survey of her hull, ascertain, if possible, the cause and extent of the leak or leaks and report the same to this consulate under your own hands, in writing, also what, in your opinion, had best be done for the interest of the parties concerned.

Given, &c.

(Seal of the consulate.)

———,

U. S. Consul.

Form No. 65.

Second report of survey on a vessel.

No. 3.

Pursuant to the accompanying warrant of survey to us directed by ——— ———, U. S. consul at ———, we, the undersigned, repaired on board of the ship ———, of ———, of the burden of ——— tons, or thereabouts, and after a further careful examination and survey of the hull of said ship, do report as follows, viz:

In confirmation of which we are willing, if required, to attest.

Given under our hands at ———, this —— day of ———, A. D. 18—.

——— ———,
Master of the ———, *of* ———.

——— ———,
Master of the ———, *of* ———.

——— ———,
Master ship-carpenter at ———.

Received ——— dollars each for holding the survey.

——— ———.
——— ———.
——— ———.

Form No. 66.

Consuls' certificate authenticating signatures of second surveyors.

No. 4.

Consulate of the United States of America at ———,
———, 18—.

I, the undersigned, consul, &c., &c., do hereby certify that the foregoing are the true and genuine signatures of —— ———, —— ———, and —— ———, the persons appointed by me on the second survey of the ship ———, and as such are entitled to full faith and credit.

Given, &c.

(Seal of the consulate.)

——— ———,
U. S. Consul.

Form No. 67.

Estimate of repairs.

Estimate of the probable cost of repairing the ———, of ———, agreeably to the recommendations contained in the report of survey of the ——— instant, and in accordance with the cost of labor and material at the port of ———, as follows, viz:

For heaving ship down on both sides, including use of hulk, blocks, falls, tackle, &c., (or, as the case may be, placing in dock)..... $
For taking out planks.....
For ——— feet of plank, at $——— per M.....
For ——— carpenters, ——— days each, ——— days at $———.....
For ——— lbs. nails.....
For ——— lbs. copper spikes.....
For ——— sheets felt.....
For ——— lbs. oakum.....
For ——— barrels pitch.....
For ——— barrels tar.....
For ——— barrels rosin.....
For ——— sheets copper, ——— lbs, at ———.....
For ——— lbs. copper nails.....
For ——— calkers, ——— days each, ——— days at $———.....
For ——— carpenters.....
For use of pitch pots, boys, &c.....
For superintendence of master carpenter.....

$

———, 18—.

——— ———,
Master Ship-carpenter.

Form No. 68.

Consul's certificate authenticating signature to estimate.

Consulate of the United States of America at ———,
———, 18—.

I, the undersigned, consul, &c., &c., do hereby certify that the foregoing is the true and genuine signature of ——— ———, master ship-carpenter at ———, and as such is entitled to full faith and credit.

Given, &c.

——— ———,
U. S. Consul.

FORM No. 69.

Advertisement for funds on bottomry to repair.

$—— to $——.

WANTED on the hull, spars, sails, rigging, and homeward freight of the ——, of ——, of the burden of —— tons register, whereof —— —— is master, the sum of from —— to —— dollars for repairs and outfits to enable the said vessel to proceed to sea.

Proposals for the advance of the above sum will be received at the office of the United States consulate at ——, until —— p. m. ——, 18—.

—— ——

FORM No. 70.

Advertisement of sale of a vessel.

Will be sold at public auction, for account of whom it may concern, the ——, of ——, —— tons registered burden, on the —— day of ——, at ——.

The above vessel was built at ——, in the year ——, 18—, of, &c.,

For further particulars apply to the U. S. consulate at ——, or to the master on board, where inventories may be seen.

—— ——,

Licensed Auctioneer.

Form No. 71.

Certificate of consul to advertisement for funds on bottomry, where no proposals have been received.

Consulate of the United States of America at ———,
———, 18—.

Printed ADVERTISEMENT to be here AFFIXED.

I, the undersigned, consul, &c., &c., do hereby certify that the annexed advertisement, in English and ———, was published in the ——— — —, printed at ———, from the ——— day of ——— to the ——— day of ———, 18—, inclusive.

I further certify that no proposals have been received at this consulate from any person or persons to advance the sum required by the ———, for repairs and outfit to enable her to proceed to sea.

Given, &c.

——— ———.

Where proposals have been received and accepted, the above certificate will be changed as follows, viz:

I further certify that the proposals of ——— ———, to advance the amount required by the ——— for repairs and outfit to enable the said vessel to proceed to sea, of ——— twenty per centum maritime premium, were the lowest proposals received, and they are, therefore, best entitled to advance the same.

Form No. 72.

Certificate of consul to the advertisement of the sale of a vessel.

Consulate of the United States of America at ———,
———, 18—.

Printed ADVERTISEMENT to be here affixed.

I, the undersigned, consul &c., &c., do hereby certify that the annexed advertisement, in English and ———, was published in the ——— ———, from the ——— day of ——— to the ——— day of ———, inclusive.

I further certify that, agreeably to the said advertisement, the ship ——— was duly sold at this port, by public auction, for the sum of —— dollars, unto ——— ———, he being the highest bidder therefor, as will appear by the account of sales of —— ———, licensed auctioneer, hereto annexed.

Given, &c.

——— ———,
U. S. Consul.

Form No. 73.

Inventory of a ship or vessel.

No. 1.

Inventory of ship ———, of ———, of the burden of —— tons register, advertised to be sold at —— p. m. the ——— day of ———, by public auction, for account of whom it may concern, by ——— ———, licensed auctioneer, viz:

Ship ———, with hull, spars, sails, rigging, anchors, cables, boats, tackle, as she now lays at anchor in the harbor of ———.

One spare foresail,
One spare mainsail,
One spare foretopsail,
&c., &c, &c.

———, 18—. ——— ———,
Master.

Form No. 74.

Declaration of master to inventory.

No. 2.

Consulate of the United States of America at ———,

———, 18—.

I, the undersigned, consul, &c., &c., do hereby certify that on the day of the date hereof, before me personally appeared ——— ———, master of the ———, of ———, and solemnly declared that the foregoing *inventory* contains a true and faithful *list* of the *tackle*, *apparel*, and *appurtenances* of the said ship, together with all articles on board and belonging to her, as made out by himself this day.

Given, &c.

[L. S.]

——— ———, *Master.*

——— ———, *U. S. Consul.*

Note.—It is optional with the master to make this declaration.

Form No. 75.

Letter from master notifying consul of his intention to sell vessel and cargo.

No. 3. ———, 18—.

——— ———, Esq.,

U. S. Consul at ———.

Sir: Having failed in procuring on bottomry, or otherwise, the necessary funds required to repair the ———, under my command, I desire to notify you that I am, consequently, compelled to order the sale of said vessel, without delay, by public auction, as also that part of her cargo found damaged by the surveyors thereof, and recommended to be sold immediately; thus, in my opinion, best consulting the interests of all concerned.

I enclose herewith a duplicate of my letter addressed to ——— ———, licensed auctioneer, to be filed in the consulate.

Very respectfully, &c.,

——— ———, *Master.*

Form No. 76.

Letter of master to auctioneer.

No. 4. ——————, 18—.

——— ———, Esq.,

Licensed Auctioneer at ———.

Sir: As agent for whom it may concern, I hereby request you to advertise and sell, by public auction, to the highest bidder, the ———, her tackle, apparel, and appurtenances, as per inventory herewith, as she now lays at anchor in this harbor; also that part of her cargo found damaged, and recommended to be sold by the board of survey, for account of whom it may concern.

You will please render distinct account of sales of ship and cargo (in triplicate) under your own hand, to the United States consulate at this port.

I am, respectfully, &c.,

——— ———,

Master.

Form No. 77.

Consul's certificate authenticating copies of inventories and letters.

Consulate of the United States of America at ———,

——————, 18—.

I, the undersigned, consul, &c., do hereby certify that the foregoing inventory, and the declaration thereunto, and letters signed ——— ———, master, numbered 1, 2, 3, 4, are true and faithful copies of the originals filed in this consulate, the same having been carefully examined by me, and compared with the said originals, and found to agree therewith word for word and figure for figure.

Given, &c.

——— ———,

U. S. Consul.

Form No. 78.

Account of sale of a vessel.

No. 1.

Account of sale of ship ———, of ———, of the burden of —— tons, sold by the undersigned, for account of whom it may concern, by order of —— ——, master, viz:

The ship ———, as per inventory, unto —— ——, for $

CHARGES.

Advertising	$
Printing inventories	
Government dues	
Auction commission	
Consul's attendance at sale	
	$

———, 18—.

—— ——,

Licensed Auctioneer.

Form No. 79.

Consul's certificate authenticating signature of auctioneer.

No. 2.

Consulate of the United States of America at ———,

———, 18—.

I, the undersigned, consul, &c., &c., do hereby certify that the foregoing is the true and genuine signature of —— ——, licensed auctioneer for the port of ———, and as such is entitled to full faith and credit.

Given, &c.

—— ——,

U. S. Consul.

Form No. 80.

Consul's certificateauthenticating copy of account sale.

Consulate of the United States of America at ———,
———, 18—.

I, the undersigned, consul, &c., &c., do hereby certify that the foregoing account sales, signed by ——— ———, licensed auctioneer, and the certificate thereto, signed ——— ———, U. S. consul, numbered 1 and 2, are true and faithful copies of the originals filed in this consulate, the same having been carefully examined by myself, and compared with the said originals, and found to agree therewith word for word and figure for figure.

Given, &c.

——— ———,
U. S. Consul.

Form No. 81.

Certificate of consul on cancelling ships register.

Consulate of the United States of America at ———,
———, 18—.

I, the undersigned, consul of the United States, &c., &c., do hereby certify that the ship ———, of ———, ——— ——— master, has been duly condemned and sold, at this port, by public auction, and the register of the said ship, numbered —— has been this day cancelled, the one-half thereof delivered by me unto the said master, and the second half retained in this consulate, to be forwarded to the Register of the Treasury.

Given, &c.

——— ———,
U. S. Consul.

Form No. 82.

Botomry bond.

Know all men by these presents, That I, ——— ———, now master and commander of the ——— or vessel called the ———, of the burden of ——— tons, or thereabouts, now lying in the port of ———, am held and firmly bound unto ———

in the sum of ———, lawful money of the United States of America, to be paid to the said ——— ———, or to —— certain attorney, executors, administrators, or assigns; for which payment, well and truly to be made, I bind myself, my heirs, executors, and administrators, and also the said vessel, her tackle, apparel, and furniture, firmly by these presents. Sealed with my seal, at ———, this ——— day of ———, in the year of our Lord one thousand eight hundred and ——. Whereas the above bounden ——— ———, ha been obliged to take up and borrow, and hath received of the said ——— ———, for the use of the said vessel, and for the purpose of fitting the same for sea, the sum of ———, lawful money of the United States of America, which sum is to be and remain as a lien and bottomry on the said vessel, her tackle, apparel, and furniture, ———

at the rate or premium of ——— for the voyage. In consideration whereof, all risks of the seas, rivers, enemies, fires, pirates, &c., are to be on account of the said ——— ———. And for the better security of the said sum and premium, the said master doth, by these presents, hypothecate and assign over to the said —— ——, — heirs, executors, administrators, and assigns, the said vessel, her tackle, apparel, and furniture,

And it is hereby declared, that the said vessel, ——— is thus hypothecated and assigned over for the security of the money so borrowed and taken up as aforesaid, and shall be delivered for no other use or purpose whatever, until this bond is first paid, together with the premium hereby agreed to be paid thereon.

Now the condition of this obligation is such, that if the above bounden ——— ——— shall well and truly pay, or cause to be paid, unto the said ———

the just and full sum ——— lawful money as aforesaid, being the sum borrowed, and also the premium aforesaid, at or before the expiration of ——— days after the arrival of the said vessel at ———

then this obligation, and the said hypothecation, to be void and of no effect; otherwise, to remain in full force and virtue. Having signed and executed ——— bonds of the same tenor and date, one of which being accomplished, the other to be void and of no effect.

——— ———, [L. S.]

Signed, sealed, and delivered in the presence of—

——— ———,

——— ———.

FORM No. 83.

Acknowledgment to bottomry bond.

CONSULATE OF THE UNITED STATES OF AMERICA AT ———,
———, 18—.

I, ——— ———, consul, &c., do hereby certify that —— ———, master of the ———, of ———, the party to the aforesaid bottomry bond or instrument of writing, personally came before me, and executed the said bond in my presence, and in presence of the witnesses thereunto, and acknowledged the same to be his free act and deed for the purposes therein mentioned.

Given, &c.

——— ———, *U. S. Consul.*

FORM No. 84.

Assignment of bottomry bond.

We hereby assign our rights in the within bond to ——— ——— ——— ———, merchants of ———, that it may be paid to them or to their order.

——— ———.

FORM No. 85.

Acknowledgment to assignment of bottomry bond.

CONSULATE OF THE UNITED STATES OF AMERICA AT ———,
———, 18—.

I, the undersigned, consul, &c., do hereby certify that on the day of the date hereof, before me personally appeared ——— ———, one of the firm of ——— ———, parties to the foregoing assignment, and executed and acknowledged the same in my presence to be the act and deed of the said firm for the purposes therein mentioned.

Given, &c.

——— ———, *U. S. Consul.*

FORM No. 86.

Endorsement of bottomry on ship's register.

CONSULATE OF THE UNITED STATES OF AMERICA AT ———,
———, 18—.

I, the undersigned, consul, &c, &c., do hereby certify that —— ——, master of the ———, of ———, described in the within register, has this day hypothecated the said vessel, ———, unto —— ——, merchants of ———, in the penal sum of —— dollars.

Given, &c.

—— ——,
U. S. Consul.

FORM No. 87.

Endorsement on register on the payment of a bottomry bond.

CONSULATE OF THE UNITED STATES OF AMERICA AT ———,
———, 18—.

I, the undersigned, consul, &c., &c., do hereby certify that on the day of the date hereof, before me personally appeared —— ——, and acknowledged before me the receipt of the sum of —— dollars, called for by the terms and conditions of a bottomry bond executed by —— ——, master of the ———, of ———, the —— day of ———, 18—, at ———, and that the said bond has been this day duly cancelled according to law.

Given, &c.

—— ——,
U. S. Consul.

Form No. 88.

Declaration and oath of master to death or loss overboard at sea of a seaman or mariner.

Consulate of the United States of America at ———,
———, 18—.

I, the undersigned, consul of the United States of America for ———, and the dependencies thereof, do hereby certify that on the day of the date hereof, before me personally appeared ——— ———, master of the ———, of, ——— and made oath, in due form of law, that —— —— died at sea, (or was lost overboard at sea, as the case may be,) on board the said ship, on or about the ——— of ———, 18—, on the voyage from ——— to this port.

Given, &c.

—— ——,
U. S. Consul.

Form No. 89.

Declaration and oath of master or mate to correctness of log-book.

On the ——— day of ———, A. D. 18—, before me, the undersigned, consul, &c., personally appeared ——— ———, (master or mate, as the case may be) and made oath, in due form of law, that the journal of the voyage from ——— to ———, commencing on the ——— and ending on the ———, and embraced within folios from —— to ——, contains a true and faithful log, written by himself, of the transactions on board the said ———, day by day as they occurred.

—— ——,
U. S. Consul.

[L. S.]

—— ——,
Master (or Mate.)

FORM No. 90.

Declaration and oath of master to ship's bills and vouchers for disbursements and repairs.

CONSULATE OF THE UNITED STATES OF AMERICA AT ———,
———, 18—.

I, the undersigned, consul, &c., &c., do hereby certify that on the day of the date hereof, before me personally appeared ——— ———, master of the ———, of ———, and made oath, in due form of law, that the bills and accounts hereunto annexed, numbered from —— to ——, inclusive, are the true and genuine vouchers relating to the cost of the repairs and disbursements of the said ship at this port, superintended by himself.

——— ———,
Master.

Subscribed and sworn to before me
the date above written.

——— ———,
U. S. Consul.

FORM No. 91.

Consul's certificate for custom-house or authorities, in cases of the deviation of a vessel from the voyage.

CONSULATE OF THE UNITED STATES OF AMERICA AT ———,
———, 18—.

I, the undersigned, consul, &c., &c., do hereby certify that the ———, of ———, ——— ——— master, bound from ——— to ———, arrived at this port on the —— instant, laden with ———, in a damaged state and condition, and in order to repair the said ——— it is necessary to discharge the cargo, as appears by the note of protest of the said master, made before me the —— day of ———, 18—, and the report of survey of the said vessel, filed in this consulate. I further certify that it likewise appears, from said report of survey and protest, that a part of said cargo was thrown overboard at sea on the voyage from ——— to this port.

Given, &c.

——— ———,
U. S. Consul.

FORM No. 92.

Consul's certificate given to master when ship's register is retained entire in the consulate.

CONSULATE OF THE UNITED STATES OF AMERICA AT ,
———, 18—.

I, the undersigned, consul, &c., &c., do hereby certify that the ———, of ———, was sold at this port on the —— day of ———, unto ——— ———, a citizen of the United States, and that —— ———, late master, has this day duly received the crew list and shipping articles of the said ship.

I further certify that the register of the said ship, deposited by the said master, has been retained in this consulate.

Given, &c.

——— ———,
U. S. Consul.

FORM No. 93.

Consul's certificate on conduct of crew on board, imprisonment, &c.

U. S. CONSULATE,
———, 18—.

I, the undersigned, consul, &c., &c., do hereby certify that —— ———, —— ———, and —— ———, seamen or mariners belonging to the ship ———, of ———, —— ——— master, were placed in irons on board the said ship by the said master, for refusal of duty and insubordinate conduct, and afterwards taken on shore and imprisoned with my consent.

Given, &c.

——— ———,
U. S. Consul.

FORM No. 94.

Consul's certificate given to a seaman at the time of his discharge.

CONSULATE OF THE UNITED STATES OF AMERICA AT ———,
———, 18—.

I hereby certify that —— ——— has been duly discharged according to law from the ———, of ———.

——— ———,
U. S. Consul.

{ Seal of the consulate. }

Gratis.

Duplicate discharges will not be granted to the seaman or mariner in the event of the loss of the original.

FORM No. 95.

Consul's certificate and oath of new master.

I, —— ———, do solemnly and truly swear that I am a citizen of the United States of America, having been born in ———, (or naturalized, as the case may be.)

——— ———.

Sworn and subscribed to this —— day of ———, before me.

——— ———,
U. S. Consul.

CONSULATE OF THE UNITED STATES OF AMERICA AT ———,
———, 18—.

I, the undersigned, consul of the United States of America, &c., do hereby certify that ——— ———, having taken and subscribed the oath required by law, is at present master of the ———, of ———, in lieu of —— ———, the former master.

Given, &c.

——— ———,
U. S. Consul.

FORM No. 96.

Certificate of ownership of a vessel.

CONSULATE OF THE UNITED STATES OF AMERICA AT ———,
———, 18—.

I, the undersigned, consul of the United States of America for ———, and the dependencies thereof, do hereby certify that the ———, of ———, of the burden of —— tons, ——— ——— master, was built at ———, in the year ———, and is owned by ——— ———, of ———, State of ———.

Given, &c.

——— ———,
U. S. Consul.

FORM No. 97.

Roll or list of crew when required by the captain or authorities of the port.

CONSULATE OF THE UNITED STATES OF AMERICA.

Roll or list of the crew of the ———, of ———, of the burden of ——, whereof ——— ——— is master, bound to ———.

Names of seamen or mariners.	Stations.	Country to which they belong.

Embracing in this roll ——— seamen and mariners, including the captain.

——— ———,
U. S. Consul.

———, 18—.

Form No. 98.

Certificate to shipping articles.

Consulate of the United States of America at ———,
———, 18—.

I, the undersigned, consul, &c., do hereby certify that the shipping articles of the ———, of ———, hereto annexed, were made out and signed in this consulate, and that the same were read and explained by me to the parties whose names are subscribed thereto, comprising the crew of said ———, each of whom personally acknowledged that he fully understood the same, and had signed his name thereto of his own free will and accord.

——— ———,
U. S. Consul.

Form No. 99.

DEBENTURE CERTIFICATE.

Certificate of the consignee.

The following certificate must express the marks and numbers, if any, on the packages; the number of packages and contents, with weight, measure, or gauge, (in letters, not figures,) and be signed by the consignee residing abroad; *but if the goods are consigned to the master, or any other person on board the vessel, it must be signed by the purchaser or purchasers, specifying that he or they were such:* and then verified and sworn to according to the subsequent forms.

I, ——— ———, of the ———, of ———, merchant, dohere by certify that the goods or merchandise hereinafter described have been landed in this ———, between the ——— and ———, 18—, from on board the ———, of ———, whereof ——— ——— is at present master, viz:

Marks.	Numbers.	

Which, according to the bills of lading for the same, were shipped on board the ———, at the port of ———, in the United States of America, on or about the ——— day of ———, 18—, and consigned to —— —— by ——— ——— aforesaid, merchant.

Given under —— hand–, at ———, this —— day of ———, 18—.

——— ———.

FORM No. 99—Continued.

Oath of the master and mate.

This oath should be made before a consul of the United States at the place of landing; or, if none such reside there, before some properly constituted authority. It will be valid if not made until the vessel returns; the contingency of the death of her officers, however, suggests the propriety of its being made abroad.

PORT OF ———.

We, —— ——, master, and —— ——, mate, of the ——, of ——, lately arrived in the port of ——, from ——, in the United States of America, do solemnly swear that the goods or merchandise enumerated and described in the preceding certificate, dated the day —— of ——, and signed by —— ——, of the city of ——, merchant, were actually delivered at the said port from on board the said ——, within the time specified in the said certificate.

Sworn at the —— of ——, before me, this —— day of ——, 18—.

—— ——, *U. S. Consul.*

—— ——, *Master.*

—— ——, *Mate.*

Consul's certificate.

This verification to be signed by the consul or other public agent of the United States, if one reside at the place.

I, —— —— of the United States of America at the —— of ——, do declare that the facts set forth in the preceding certificate, subscribed by —— ——, of the said city, merchant and dated the —— day of ——, are (to my knowledge, or in my opinion) just and true, and deserving full faith and credit.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of my office, at ——, this —— day of ——, 18—.

[L. S.]

—— ——, *U. S. Consul.*

Merchants' certificate.

In the absence of a consul or other public agent of the United States at the place of landing, this verification shall be signed by two American merchants; or, if there be none such residing there, by two respectable foreign merchants, in which case the last blank should be filled up with the words, "nor American merchants."

We, —— —— —— ——, merchants, residing at the ——, of ——, do declare that the facts stated in preceding certificate, signed by —— ——, of the said ——, merchants, on the —— day of ——, are (to my knowledge, or in my opinion) just and true, and worthy of full faith and credit. We also declare that there is no consul or public agent of the United States of America, nor —— — now residing at this place.

Given under —— hand—, at the —— of ——, aforesaid, this —— day of ——, 18—.

—— ——.

—— ——.

FORM No. 100.

Application of a citizen of the United States for a sea letter.

———, 18—.

——— ———, Esq.,

U. S. Consul at ———.

SIR: The undersigned, a citizen of the United States of America, residing in ———, State of ———, temporarily sojourning in ———, having this day purchased the American ship ———, of ———, of the burden of —— tons, respectfully solicits the requisite sea letter and papers identifying the undersigned as the owner, and that will enable the said ship to remain under and wear the flag of the United States of America. Said sea letter and papers will be required until such time as the said ship may arrive within the jurisdiction of a collector of the customs of the said United States, authorized to receive the same, and to issue in lieu thereof a new register or such papers granted by the laws of the United States to the owners of American vessels, purchased in foreign countries by citizens of the United States of America.

Respectfully, your obedient servant,

——— ———.

FORM No. 101.

Sea Letter.

To all to whom these presents shall come or may concern, Greeting:

KNOW YE, That whereas the ———, of ———, of the burden of —— tons, described in the bill of sale and register hereto annexed, was duly sold at this port on the —— day of ——, at public auction, for account of whom it may concern, unto ——— ———, a citizen of the United States, he being the highest bidder therefor. And whereas the said ——— ———, desiring that the said ——— shall remain under and continue to wear the American flag until her return to a port in the United States, where may be obtained a new register or such other papers as are usually granted to American vessels purchased by citizens thereof in foreign countries.

Now, therefore, in consideration of the foregoing premises, this sailing letter is granted, with permission to the said ———, whereof ——— ——— is master, to proceed hence to ——— ———, and there procure such register or papers, in accordance with the laws regulating the registering of vessels purchased by citizens of the United States, as aforesaid.

This sailing letter to be used for the purposes above described only, and to be delivered to the collector of customs where the said vessel shall first arrive in the said United States.

Given under my hand and the seal of the consulate of the United States

[L. S.] at ———, this —— day of ———, A. D. 18—.

——— ———, *Consul.*

FORM No. 102.

Certificate of new ownership of a vessel.

CONSULATE OF THE UNITED STATES OF AMERICA AT ———,
———, 18—.

I, the undersigned consul, &c., &c., do hereby certify that it appears by a bill of sale, dated ———, 18—, executed by —— ——— and ——— ———, of ———, State of ———, before ——— ———, that the ship ———, named and described in the within register, has been duly transferred and sold unto —— ——— —— ———, of ——, and that they are now the legal owners of the said ———.

Given, &c.

——— ———,
U. S. Consul.

FORM No. 103.

Order to pay, at home, seamen's wages or voyages.

———, 18—.

SHIP ——— AND OWNERS:

On the termination of the voyage of the ———, pay to —— ——, or order, what may be due to him for his voyage in said ———, he being this day discharged at this port by mutual consent. The said ——— ——— is entitled to the ——— lay, the ship having been out, and he having served in her at the time of his discharge ——— months and ——— days, and the quantity of oil and bone taken, including that held and shipped, as well as that now on board, being —— barrels of whale oil, and —— pounds of bone.

——— ———,
Master.

Witness:

——— ———.

FORM No. 104.

Master's acknowledgment to the same.

CONSULATE OF THE UNITED STATES OF AMERICA AT ———,
———, 18—.

I, the undersigned consul, &c., do hereby certify that on the day of the date hereof, before me personally appeared ——— ———, master of the ———, of ———, who, in my presence, and in presence of the witnesses thereunto, signed the foregoing order, and acknowledged the same to be correct in all of its particulars, and to be his voluntary act and deed for the purposes therein mentioned.

Given, &c.

——— ———,
U. S. Consul.

FORM No. 105.

Consul's order to send seamen to hospital.

CONSULATE OF THE UNITED STATES OF AMERICA AT ———,
———, 18—.

SIR: You will please admit into your hospital ——— ———, an invalid destitute American seaman, requiring medical aid, for account of this consulate.

I am, very respectfully,
Your obedient servant,

——— ———,
U. S. Consul.

——— ———, *M. D.*

Form No. 106.

Consul's order to imprison seamen or mariners.

Consulate of the United States of America at ———,
———, 18—.

Sir: ——— ———, ——— ———, and ——— ———, part of the crew of the ———, of ———, whereof ——— ——— is master, recently arrived in this port from ———, having conducted themselves in an improper and insubordinate manner on board, and positively refused to do duty, I have the honor respectfully to request that you will please cause the said named persons to be arrested, brought on shore, and imprisoned until I can find it expedient to give them their liberty.

I have the honor to be, very respectfully, your obedient servant,

——— ———,
U. S. Consul.

To ——— ———,
Captain (or authorities of the port.)

See section 308 et seq. of the Regulations.

Form No. 107.

Consul's order to release seamen or mariners from prison.

Consulate of the United States of America at ———,
———, 18—.

Sir: I have the honor to request that you will please cause to be released from prison ——— ———, ——— ———, and ——— ———, the seamen or mariners belonging to the ———, ——— ——— master.

I have the honor to be, very respectfully,

——— ———.
U. S. Consul.

To ——— ———,
Captain (or other authorities of the port.)

Form No. 108.

Consul's letter requesting the arrest of deserters.

Consulate of the United States of America at ———,
———, 18—.

Sir ——— ———, ——— ———, and ——— ———, three of the seamen belonging to the ———, of ———, whereof ——— ——— is master, recently arrived from ———, having absconded at this port from the said ———, I have the honor respectfully to request that you will please cause warrants to be issued for their arrest and imprisonment, and that they be retained subject to the order of this consulate.

I have the honor to be, very respectfully, your obedient servant,

———,
U. S. Consul.

To ——— ———,
Captain (or authorities of the port.)

See section 316 et seq. of the Regulations.

Form No. 109.

Consul's certificate of the shipment of seamen or mariners attached to crew list and shipping articles.

Consulate of the United States of America at ———,
———, 18—.

I, ——— ———, consul of the United States of America for ———, and the dependencies thereof, do hereby certify that the seamen or mariners hereinafter named, have been duly shipped at this port, before me, upon the terms and conditions set opposite their names, respectively, viz:

Names of seamen or mariners.	Stations.	Age.	Height.		Country to which they belong.	Lay or share of oil or cargo.	Monthly wages.	Advance wages.	Voyage.
			Feet.	Ins.					

Given, &c.

———,
U. S. Consul.

Form No. 110.

Agreement of master to give increased wages to seamen.

I, —— ——, master of the ——, of ——, taking into consideration the high rate of wages for seamen, ordinary seamen, cooks, and stewards, out of the port of ——, do hereby agree and bind myself to pay or cause to be paid the sum of —— dollars to the ordinary seamen, —— dollars to the seamen, and —— dollars to the —— hereinafter named belonging to the said vessel, as increased wages, beginning from the —— day of ——, and continuing until the termination of the voyage agreeably to the contract of shipping articles signed by them, a certified copy of which is hereto annexed, dated ——, 18—.

—— ——,
Master.

Attested:
[L. S.] —— ——,
U. S. Consul.

Form No. 111.

Voucher for burial expenses.

Consulate of the United States of America, at ——,

To —— ——, Dr.

For burial expenses of the following named destitute American seamen, who died at ——, during the quarter ending —— day of ——, 18—:

November 22,	—— ——	$4.00
" 26,	—— ——	4·00
		$8.00

Received, ——, 18—, from —— ——, U. S. consul at ——, the sum of —— in full of the above bill.

—— ——.

Form No. 112.

Passport visa.

Seen at the consulate of the United States of America at ——, 18—, and good for the voyage to —— (or journey, as the case may be.)

—— ——,
U. S. Consul.

Form No. 113.

Bill of sale of a vessel.

Know all men by these presents, That we, —— —— and —— ——, owners of the ————, of ————, for and in consideration of the sum of ———— to —— —— in hand paid at or before the ensealing and delivery of these presents, by —— ——, the receipt whereof is hereby acknowledged, have granted, bargained, sold, assigned, transferred, and set over, and by these presents do grant, bargain, sell, assign, transfer, and set over unto the said —— ——, —— executors, administrators, and assigns, ———— together with ———— her masts, yards, sails, rigging, anchors, cables, boats, tackle, apparel, and appurtenances, as she ——, and as she is more particularly described in a certificate of register granted her at the port of ——, in the following words:

[Here insert copy of the register.]

To have and to hold the said ——, and the appurtenances thereunto belonging, unto the said —— ——, —— executors, administrators, and assigns, to the only proper use and behoof, and as the proper goods and chattels of the said —— ——, —— executors, administrators, and assigns, from henceforth forever; and we, the said —— —— and —— ——, for ourselves, our executors, and administrators, do hereby covenant and agree to and with the said —— ——, — executors, administrators, and assigns, that at the execution of these presents, we are, as aforesaid, the true and lawful owners of the said —— called the ——, of ——, with the appurtenances thereunto belonging, and have full right and authority to sell and dispose of the same, and that she is freed from and cleared of all claims, encumbrances, or demands whatsoever.

In witness whereof —— have hereunto set —— hand— and seal—, the —— day of ——, A. D. 18—.

—— —— [L. S.]

Signed, sealed, and delivered,
in the presence of— —— —— [L. S.]
—— ——.

Form No. 114.

Acknowledgment to bill of sale.

Consulate of the United States of America at ——,
————, 18—.

I, the undersigned consul, &c., do hereby certify that —— —— signed and sealed the above bill of sale in my presence and in presence of the witnesses thereto, and acknowledged the same to be his act and deed for the purposes therein mentioned.

Given, &c.

——. ——,
U. S. Consul.

Form No. 115.

Mortgage bill of sale of a vessel.

Know all men by these presents, that whereas —— —— is indebted unto —— ——, of ——, in the sum of —— dollars, and to secure the payment thereof on or before the ——, the said —— —— desires to mortgage all his —— or vessel called the ——, of ——: Now know ye, that the said —— ——, for and in consideration of the premises, and also of the sum of one dollar to —— in hand paid at the time of the ensealing and delivery of these presents, by —— ——, the receipt whereof is hereby acknowledged, —— granted, bargained, sold, assigned, transferred, and set over, and by these presents do grant, bargain, sell, assign, tranfer, and set over, unto the said —— ——, together with ——, her masts, yards, sails, rigging, anchors, cables, boats, tackle, apparel, and appurtenances, as she is at this time, and is more particularly described in a certificate of register granted her at the port of ——, in the following words:

[Here insert copy of register.]

To have and to hold (as per concluding part of a bill of sale for a vessel.)

Provided always, and these presents are upon this condition, nevertheless, that if the said —— ——, executors or administrators, shall well and truly pay, or cause to be paid, unto the said —— ——, executors, administrators, or assigns, the sum of ——, and the interest, at the time limited as aforesaid, that then and from thenceforth these presents, and everything herein contained, shall cease and determine, and be absolutely void; otherwise, to be and remain in full force and virtue. And it is hereby covenanted and agreed, by and between the parties to these presents, that if default shall be made in the payment of the said ——

——

then and from thenceforth it shall be lawful for the said —— ——, executors, administrators, or assigns, to enter upon, and take possession of —— or vessel, her masts, yards, sails, rigging, anchors, cables, boats, tackle, apparel, and appurtenances aforesaid; and to grant, bargain, sell, and dispose of the same, and all other the premises aforesaid, at public auction or vendue, in the city of ——, or elsewhere, first giving —— days' notice of the time and place of such sale, and as the attorney of the said —— ——, or otherwise, to make, seal, execute, and deliver to the purchaser or purchasers thereof, a good and sufficient bill of sale, or other conveyance therefor; and out of the moneys arising from such sale, to retain all such sum or sums of money which shall then be due on such ——, according to the true intent and meaning thereof; together with all costs and expenses attending such sale; returning the surplus money (if any) to the said —— ——, executors, administrators, or assigns.

In witness whereof, —— have hereunto set —— hand and seal this —— day of ——, in the year of our Lord one thousand eight hundred and ——.

—— ——. [L. S.]

Signed, sealed, and delivered in the presence of—

—— ——.

Form No. 116.

Protest of the master of a vessel against charterers or freighters.

Whereas the surveyors of the ship ——, of ——, —— —— master, of the —— day of ——, have recommended the said ship to proceed to a port of discharge, in the United States, with temporary repairs, and with as much cargo as will render her perfectly safe, and that she be there thoroughly overhauled and permanently repaired. And whereas, in order to reach a port of discharge with safety and despatch, where the repairs recommended in the said survey may be done and performed, it is better for all parties concerned that the voyage should be made direct from the port of —— to the said port of permanent repair in the United States. And whereas —— ——, master of the ship ——, of ——, aforesaid, has determined to proceed direct to the port of ——, there to thoroughly overhaul and repair the said ship, as recommended by the said survey, but in order to accomplish this end, and in lieu of touching at —— for orders, and for the privilege of the said direct port, he has been obliged to give up and yield to the charterers of the said ship one dollar per ton upon the number of tons of ——, delivered at the said port of ——, amounting in the aggregate to the sum of —— dollars, more or less. Now know all men by these presents, that on the day of the date hereof, before me —— ——, consul of the United States of America for ——, and the dependencies thereof, personally came and appeared —— ——, before named, and after stating the facts contained in the foregoing premises, hath protested, like as by these presents, I, the said consul, at his special instance and request, do publicly and solemnly protest, against all and every person and persons whom it doth, shall, or may concern, and against the charterers of the said ship, for exacting the amount of —— dollars, aforesaid, claiming and demanding the reimbursement of the same from those to whom the same of right may appertain by way of average or otherwise upon the arrival of the vessel at the port of permanent repairs as aforesaid.

In testimony whereof, the said —— —— hath hereunto subscribed his name, and I, the said consul, set my hand and affixed the seal of this consulate this —— day of ——, A. D. 18—.

[L. S.]

—— ——,
U. S. Consul.

—— ——,
Master of the ——.

Form No. 117.

Average bond.

Whereas the ———, of ——, of the burden of ——— tons, ——— ——— master, on her voyage from ——— to ———, laden with ———, encountered boisterous and tempestuous weather, whereby she became disabled, and for the safety of all concerned had to be carried into ———, where the cargo was landed and the vessel repaired, and certain expenses were thus incurred in the nature of general average; and the said vessel having arrived at the port of ———, the said master declines to deliver the said cargo, or any part thereof, until he is secured in the payment of all such average, share, or proportion of the said expenses as justly falls unto the said cargo. Now we, the subscribers, owners and consignees of the cargo shipped on board the ———, at ———, as aforesaid, do hereby promise and agree and bind ourselves respectively by these presents, to pay, or cause to be paid, to the said master, or his assigns, our respective proportions or parts of the general average, and other expenses accrued or accruing as above mentioned, as soon as the same shall be properly adjusted and ascertained agreeably to established custom, usage, and rule of trade in ——— in similar cases.

———, ———, 18—.

Name of owner and consignee.	Cargo.	Interest.

Form No. 118.

Charter Party.

This charter party of affreightment, made and concluded this —— day of ——, in the year of our Lord eighteen hundred and ——, between —— ——, of the city of ——, merchants, agents for the American brig or vessel called the —— of ——, now lying in the port of ——, whereof —— —— is master, of the one part, and —— ——, of ——, aforesaid, merchants, charterers or freighters of said brig, of the other part: Witnesseth, that the said —— ——, as agents aforesaid, for the consideration hereinafter mentioned, have this day letten the said brig or vessel to freight, and by these presents do let her whole reach, burden, and appurtenances to the said freighters, reserving only the cabin for the master and officers and sufficient room under the deck for the crew, provision, cable, &c., for a voyage from —— to ——, or to ——, at the option of said freighters, with the privilege of using the port of —— for orders; and the said freighters have, by these presents, hired the same in manner and form following, that is to say: that the said brig is now, and at all times during the said voyage shall be, at the expense of her owners, to be kept tight, staunch, and strong, well manned, victualled, and provided with every thing necessary for the said voyage, and also that the said brig, being now ready, shall immediately receive and take on board in the port of _____

_____

as said brig can with safety stow and carry, which are to be furnished by the said freighters, alongside of said brig within reach of her tackle; and also that said brig, being so laden, the master shall, with the first favorable opportunity of wind and weather thereafter, depart with the said brig, and the cargo on board, and proceed direct to any one of the above mentioned ports or places as may be designated by the said freighters, or he shall proceed direct to ——, to receive orders, and then proceed to whichever of the said ports or places he may there be directed to proceed to, and upon his arrival at such port, make a safe delivery of the said cargo to the said freighters, their agents or assigns, in the usual and customary manner of delivering such cargoes in such port, the delivery to be made within reach of the brig's tackle, and for the loading at —— and unloading at the outward port or ports shall lay —— running days, if required, and so end the voyage, the dangers of the seas, restraints of princes and rulers, fire and enemies, during the time, always excepted. In consideration whereof, the said —— —— promise and agree not only to deliver the cargo at ——, as aforesaid, receive the same at one of the ports in Europe as aforesaid, within the days limited as aforesaid, but shall and will pay or cause to be paid to —— ——, of ——, their agents or assigns, in full for the freight, hire and port charges of said brig —— and —— for each and every ——, and —— for each and every —— on board the said brig with —— per cent. primage, the whole to be considered earned, due, and payable on delivery of said cargo at the port of discharge, free and clear of any commissions or discounts whatsoever, in the lawful currency of ——, together with the sum of —— demurrage for each and every day that said brig shall be detained over and above the time hereinbefore limited, provided the same shall be caused by the said freighters, their agents or assigns. And for the true and faithful performance of this agreement, according to its true intent and meaning, the said agents bind the said —— ——, and the freight earned and to be earned, and the said freighters bind themselves and the merchandise laden and to be laden on board the said brig, each to the other, in the penal sum of ——, lawful money of ——, firmly by these presents.

In witness whereof, the said parties have hereunto subscribed the names of their respective firms, the day and year aforesaid.

—— ——.

—— ——.

Signed, sealed, and delivered,
in presence of—

—— ——.

Form No. 119.

Charter Party.

This charter party of affreightment, made and concluded this ——— day of ———, in the year of our Lord eighteen hundred and ———, between ——— ———, of ———, owner of the ——— or vessel called the ———, of ———, of the burden of —— tons, or thereabouts, of the one part, and —— ——, of ———, of the other part: Witnesseth, that the said —— ——, for himself and the other owners of said vessel, for the consideration hereinafter mentioned, hath hired to freight, and by these presents doth hire to freight, the said ———, her apparel and furniture, for a voyage to commence at ———, and on the arrival of said ——— there, the master shall receive and take on board (in the usual manner in that port) as full a cargo of ——— as said vessel can with safety stow and carry under deck; and immediately after being so laden, the master shall, with the first favorable opportunity of wind and weather thereafter, proceed with the vessel and said cargo direct to the port of ———, and upon her arrival there make a safe delivery of the said cargo in the customary place or places, and in the usual manner of making deliveries in similar cases, to the said —— ——, his agents or assigns, and for orders and for loading at ——, —— running lay days, and for unloading on her return to ——— shall lay, say ——— days, if required, and so end the voyage, the dangers of the seas, restraints of rulers, and other unavoidable accidents, always excepted. In consideration whereof, the said —— —— covenants, promises, and agrees, not only to deliver a cargo as aforesaid at ———, and receive the same at ——— as aforesaid, but shall and will pay, or cause to be paid, to the said —— ——, his agents or assigns, in full for the freight hire of said ———, for the voyage aforesaid, ——— in lawful money of the United States, for each and every one hundred pounds of ——— that may be shipped at ———, with ——— dollars, lawful money aforesaid, for each and every day that said vessel may be detained by said freighter over and above the days hereinbefore limited, the whole amount to be considered earned, due, and payable on the landing of said cargo at ———.

And for the true and faithful fulfilment of this agreement, according to the true intent and meaning thereof, the said part owner binds the said ———, her tackle and appurtenances, and the freight earned and to be earned; and the said freighter binds the cargo laden and to be laden on board, each to the other, in the penal sum of ——— dollars, firmly by these presents.

In witness whereof, the said parties have hereunto set their hands and seals, the day and year aforesaid.

—— ——. [SEAL.]

Signed, sealed, and delivered, in the presence of— } —— ——. [SEAL.]

——— ———.

Form No. 120.

Will.

In the name of God. Amen! I, —— ——, of ———, being of sound mind and understanding, do make this my last will and testament, as follows, viz:

Firstly. I desire that all my just debts, funeral, and testamentary expenses be paid and satisfied by my executors hereinafter named, as soon after my decease as practicable.

Secondly. I give, devise, and bequeath unto —— —— (all and every of my household furniture, linen, wearing apparel, books, plate, and also all such sum and sums of money which may be in my house or about my person, or which may be due and owing to me at the time of my decease.)

Thirdly. &c., &c.

And I do nominate, constitute, and appoint —— —— to be my executors of this my last will and testament, hereby revoking all former or other wills made by me at any time heretofore, and declare this to be my last will and testament.

In witness whereof, I, the said —— ——, have, to this my last will and testament, set my hand, the —— day of ———, in the year A. D. 18—.

——— ———.

Signed and declared by the said —— ——, the testator, as and for his last will and testament, in the presence of us, who, at his request, and in his presence, and in the presence of each other, have hereunto subscribed our names as witnesses.

——— ———.

——— ———.

Form No. 121.

Bill of Health.

Consulate of the United States of America at ———,

I, —— ——, consul, &c., do hereby certify, that the ——— or vessel called the ———, of ———, of the registered burden of ——— tons, whereof —— —— is master, navigated by ——— men, and having on board ——— passengers, being in all ——— persons on board, cleared this day at this port for ———.

I further certify, that in this port and its vicinity, good health prevails, without any suspicion of plague or contagious distemper whatsoever.

Given, &c.

———— ————,

U. S. Consul.

Form No. 122.

Acknowledgment to a deed or instrument of writing.

On this ——— day of ———, A. D. 18—, before me, the undersigned U. S. consul for ———, personally appeared —— ——, known to me to be the person described in, and who executed the foregoing deed, and acknowledged the same to be his act and deed, and declared that he had executed the same freely and voluntarily, to the uses and for the purposes therein mentioned.

Given, &c.

[L. S.] ——— ———,

U. S. Consul.

Form No. 123.

Draft.

Consulate of the United States of America at ———,

———, ———, 18—.

$ ———

Fifteen days after sight, (acceptance waived) of this my first of exchange, (second and third of the same tenor and date unpaid,) pay —— ——, or order, ——— $\frac{\text{——}}{100}$ dollars, the amount of disbursements at this consulate on account of —— ——, for the quarter ending ———, as per advice.

——— ———,

U. S. Consul.

Hon. —— ——,

Secretary of State (or Secretary of the Treasury, as the case may be,) of the United States, Washington.

Note.—The quarter is reckoned at the Treasury from the commencement of the fiscal year, which is on the 1st of July. In drawing upon the State or Treasury Department, consular officers will always insert in their drafts the words "acceptance waived."

INDEX

TO

I. INSTRUCTIONS TO CONSULAR OFFICERS.
II. ACTS OF CONGRESS RELATING TO CONSULAR OFFICERS.
III. FORMS TO BE OBSERVED BY CONSULAR OFFICERS.

I. INSTRUCTIONS TO CONSULAR OFFICERS.

Section.

Absence,
regulation respecting..... 84, 114, 241, 242, 378
Account book,
described 140
Account,
certificate to 242
for relief of seamen..... 207, 208, 288
for criminal expenses..... 227
in whose name to be kept 225
mode of transmitting 192
of intestates' estates 355, 356
rule for the adjustment of..... 220
settlement of..... 213
to be made quarterly..... 240
to precede drafts 245
(See Criminals, Salary, Seamen.)
Acknowledgment,
fee for..... 701
Acts of Congress,
application of, to consular officers 3
Act of August 11, 1848,
references to ..... 456, 469, 485—487
importance of..... 571
provisions of..... 470, 471
Act of July 20, 1840,
construction and object of..... 272—282
Affirmation,
transcript of fee book to be furnished under 124
by whom administered..... 125
Africa,
commerce in..... 437
piratical depredations in 440
Algiers,
treaties with..... 463, 464
Alien consuls,
compensation not allowed to..... 115
Aliens,
oaths by 177
Ambassador,
celebration of marriage by 591
free entry of goods of 680
American citizens,
death of, to be reported..... 157, 340
duty of consular officers towards..... 15, 379
rights of, in China ..... 535, 549—561, 607
in Turkey ..... 459—461, 463, 608
rescue of, from shipwreck to be reported... 340
American vessels,
passage of seamen in..... 216, 217
(See Seamen, Vessels.)
Analysis
of despatches..... 94
Annual report,
character of..... 153, 154

Section.

Appeal,
cases of, in China..... 514, 515
(See China.)
Appointment of
consular agents 25, 48
consuls general..... 27
consular pupils..... 56, 57
commercial agents..... 43, 44
deputy consuls 36
vice commercial agents..... 41
vice consuls..... 41
Appraisers,
information to be given to..... 169, 170
character of..... 347
Appraisement,
fee for attending..... 701
Appropriations
made for separate items 203
Archives,
application for..... 79
how to be kept 145
transfer of..... 146
Argentine confederation,
vessels of 641
Arms,
disposition of..... 82
exhibition of 144
furnished 198
Arrears,
interest on 269
Arrival,
duty of consular officer after..... 75, 79—81
of shipmasters on..... 246
meaning of ship's..... 249, 250
Assessors,
in China..... 511—513
Assets of a decedent,
limited power of consul over 363
(See Decedent, Intestate.)
Attorney,
fee for power of 701
compensation for performing services of. 382, 702
Attorney General,
opinion on consular marriages..... 572—621
on consular privileges... 1—5, 444—447, 488, 494, 495, 689, 690, 693, 697
on discharge and transportation of seamen, and sale of vessel..278—281, 286, 289
on deposit of ships' papers.....252—255
on estates of intestates.....361—377
on judicial powers of minister and consul in China and Turkey..456—467, 485—571

Section.

Austria,
vessels of 641
Authorities,
aid, when to be requested from local..... 309, 314, 316
Authentication,
fee for..... 701
Average bond,
fee for..... 701

Barbary States,
treaties with..... 463—467, 488
(See Algiers, Morocco, Tripoli, Tunis.)
Belgium,
vessels of 641
Bill of sale,
fee for..... 701
Bond,
form of..... 70
for return of seamen..... 259, 261, 681
when required from Spanish vessels..... 650
when to be executed..... 70, 71
Books,
consular..... 139
furnished by department..... 199
to be kept distinct..... 144
paged..... 143
indexed 141
Bookcase,
allowed..... 198, 201
Bounties,
defined..... 165
Brazil,
vessels and cargoes from..... 662
vessels of 641
British ports,
vessels from..... 643
British provinces,
invoices from..... 625
vessels from..... 643
(See Reciprocity, Vessel.)
British vessels,
instructions respecting..... 643
Bruni,
exterritorial privileges in..... 609
Business,
certain consular officers forbidden to engage in..... 99

Canary Islands,
Spanish vessels from..... 647
California,
treaty respecting..... 541
Canon law,
defined 614
Cargo,
of Spanish vessels..... 649
(See Tonnage, Vessel.)
Cayenne,
vessels from 645, 654
Certificate,
caution in granting..... 184, 414
credit to be given to consular..... 11
for criminal expenses..... 227
fees for..... 701
for drawback..... 411
for relief of seamen.....207, 208, 268
joint, when required..... 240
of currency.....172—185, 675—679
of desertion..... 317
of loss in exchange..... 205

Section.

Certificate, (continued.)
of physician..... 241
of passage of seamen..... 229, 295, 264
of refusal to take seamen..... 267
penalty for fraudulent..... 414
to account 242
to bond..... 70
to invoices..... 172, 183
to vice consul's account..... 225
(See Absence, Currency, Invoice, Seamen, Tonnage.)
Ceylon,
coffee from..... 671
China,
administration of the law in..... 507
capital cases in..... 512
civil and criminal jurisdiction in..... 489, 490
duties of consular officers in..... 448, 470, 473, 477—484, 497, 505, 507—518, 594, 596, 597
exterritoriality of Americans in.... 488, 535, 607
judicial proceedings in..... 493, 505
judicial tribunals in..... 470, 471
jurisdiction of consular courts in..... 548—561, 567—589
officers exercising judicial powers in..... 497
original jurisdiction of consular courts in.. 598
punishments in..... 509—513
pupils in, to be examined..... 63, 64
system of law in..... 500
treaty with..... 488
tea and coffee from..... 670
violation of laws of..... 478
(See Consul, Marriage.)
Christendom,
community of nations of..... 574
international law of..... 486
rule of, touching decedent's property..... 576
unity of..... 599
Citizenship,
requirements respecting.....66, 73, 115
Civil law,
in Louisiana 542
Claims,
in cases of intestates' estates..... 358
attention to..... 441
Clearance,
granting a..... 359
tariff of fees to be annexed to..... 137
presentation of..... 258
Clerks,
employment of foreign, to be reported..... 68
Clothing,
vouchers for..... 211
(See Seamen.)
Coffee,
duties on..... 663—671
in national vessels, (see Tea)..... 664
Collector,
clearance granted by..... 359
delivery of crew list to..... 259
to be furnished with consular receipts.. .. 133
seamen's wages, when paid to 267
transmission of crew list by..... 260
Commerce,
a common bond 10
affected by local regulations..... 13
defined..... 490
from Africa..... 439
information affecting, to be reported 13, 147—154
with Turkey..... 454
Commercial agent,
compensation of..... 104—106, 108, 239
duties of..... 62
instructions to..... 62

Section.

Commercial agent. (continued.)
meaning of the term 2
mode of appointment of 43
recognition of 44, 45
required to give bond 70
(See Consul, Consular officer, &c.)

Commercial books,
to be inventoried 349

Commercial report,
character of 155
(See Commerce.)

Commercial returns,
book of, described 140

Commission,
when sent 72
when chargeable 166, 351, 791

Commissioner,
defined 532
duties and jurisdiction of 599
powers of, in China and Turkey ..... 497—499, 504—507, 510—517, 594—597
supervision of consular acts by 530

Common law,
in China 500
why adopted 501
in United States 502
modifications of 503

Compensation,
commencement and termination of 106, 239
for notarial services 382
for transportation of prisoners ..... 229—232
none allowed to alien consuls 115
of consular agents 50, 112
of consular officers 104, 108, 109
of deputy consuls 111
of consular officers of first class 30
of second class 32
of vice consuls 111, 112
of vice commercial agents 112
when allowed during absence 114, 241
(See Consul, Consular agent, Commercial agent, Deputy consul, Vice commercial agent.)

Comptroller,
allowance by, for seamen's passage 294

Congress,
application of acts of, to consular officers .. 3
fees to be reported to 127
commercial regulations to be reported to 147, 148
commercial information required by ... 151, 171
names of remiss consular officers to be reported to 150

Consular agent,
appointment of 48
compensation of 50
correspondence of 52, 87
defined 2, 47
forbidden to appoint sub agents 54
in Turkey 445
termination of office of 53
consuls general are to be consulted in reference to appointment of 25

Consular books,
described 139
how to be kept 144

Consular certificate,
fee for 701
to marriage contract 617
to sale of vessel 637
(See Certificate.)

Consular clerk,
to be an American citizen if possible 66

Consular court,
jurisdiction of, in China ..... 548—561, 567—569
(See China, Consul.)

Section.

Consular convention,
with France 55, 389

Consignees,
consular receipts to be furnished by 133

Consular fees,
to be paid by shipmasters 293
(See Consul, Fee, Fees.)

Consular jurisdiction,
extent of 369

Consular office,
location of 144
institution of 691, 696
(See Consul, Consular officers, &c.)

Consular officers,
absence of, prohibited 84, 114, 241, 378
books to be kept by 139
bonds to be given by 70
commercial information required from ..... 13, 147—154
compensation of ..... 30, 104—106, 109, 111—113, 115, 239
compensation of, when exercising diplomatic functions 109
correspondence of 16, 17, 101, 110
crew-list and shipping articles to be presented to 264, 265
defined 2, 28
discharge of diplomatic duties by 686
duty of, in discharging seamen ..... 302—305
towards consuls general 23
in Africa ..... 437—441
towards American citizens 379
on arrival of an American vessel . 256
faithfulness enjoined upon 138
fees to be returned by 123
first class of 29
information required from ..... 160—170
intercourse of, with officers of the navy. 417—419
in respect of intestates' estates 343, 377
in respect of wrecks ..... 334—342
names of subordinates to be reported by 69
names of those remiss in their duty to be reported to Congress 150
on ship-board 312
penalty incurred by 130, 383, 413, 414
prices current to be sent by 159, 160
privileges of 33
prohibited from supplying seamen 113
prohibitions concerning 34
required to give evidence in courts .... 389—392
rescue of seamen to be reported 340
responsible for subordinates 40
return of fees to be made by 127
salutes to 490
second class of 31
third class of 33
transcript of fee-book to be sent by 236
trial of, for perjury 196
(See Consul, Seamen, &c.)

Consular pupils,
appointment of 56
compensation of 107, 239
departure of 60
duties of 61
examination of 57, 58, 63
number of 56
privileges of 55
promotion of 63
qualifications of 59
reports respecting 62

Consul,
bond to be given by 70
classes of 2
communications of 9, 14, 16
compensation of 104, 105, 108, 115, 239
contentions to be avoided by 15
currency certificate of 679

Section.

Consul, (continued.)
defined ... 2, 532, 533
departure of ... 74
diplomatic privileges not enjoyed by ... 585
duty of, after arrival ... 75
as to passports ... 401—412
how indicated ... 4, 5
in China ... 470, 473, 477—484, 497, 505, 507—518, 594, 596, 597
when his rights are invaded ... 7
respecting commerce ... 13
towards local authorities ... 8
towards his countrymen ... 15
when not defined by treaty or convention ... 6
when extended ... 621
exterritorial privileges, when possessed by ... 589
flag of, not to be struck without permission ... 17
foreign language to be learned by ... 67, 83
information to be communicated by ... 191
local politics not to be participated in by ... 16
marriage not to be celebrated by ... 592, 618
no compensation allowed to an alien ... 115
not entitled to free entry of goods ... 590
office of, in Turkey ... 449
official papers to be signed by ... 30
personal character of ... 10
privileges of, limited ... 6, 586, 587
prohibition in regard to ... 17, 110
statute duties of ... 11
seamen's complaint to ... 331
shipmasters' duty towards ... 131
subject to local jurisdiction ... 20, 584, 585
transmission of seeds by ... 14
(See Commerce, Consular officer, Draft, Exterritoriality, Marriage, Penalty, Report, Seamen, Tonnage.)

Consul general,
compensation of ... 104—106, 239
correspondence of subordinate officers, to be transmitted by ... 93
duty after arrival ... 75
in respect to subordinate officers ... 94
how instructed ... 92
meaning of the designation ... 2
mode of corresponding with consular agents ... 96
prohibited from trading ... 96
office of, when necessary ... 97
rank of ... 97
to give bond ... 70
touching the appointment of consular agents ... 95
when allowed to issue a passport ... 405
when prohibited from issuing a passport ... 404

Consulate,
reports at an inland ... 156
reports at a seaport ... 155

Contentions,
to be avoided ... 15, 381

Contracts,
in States not Christian ... 612
of marriage ... 617
(See Marriage.)

Controversies,
adjustment of ... 493
in China ... 548, 557, 561, 571
(See China, Consul, Jurisdiction, Treaty, &c.)

Convention,
effect of consular ... 6
with France ... 489

Copies,
instructions respecting ... 95

Correspondence,
character of consular ... 16
of consular agents ... 52
of consular officers ... 101

Section.

Correspondence, (continued.)
prohibitions respecting ... 14, 110
(See Consul, Consular officers, &c.)

Costa Rica,
vessels of ... 542

Courts,
in Turkey ... 461
jurisdiction of ... 388
of the States ... 546
of the United States ... 547
(See China, Consular courts, Consul, &c.)

Credentials,
of consular officers in Africa ... 428

Credits,
of deceased Americans to be collected ... 350
(See Intestate.)

Crew,
under local jurisdiction ... 386
(See Seamen.)

Crew list,
delivery to collector ... 259
described ... 250
desertion of seamen to be noticed in ... 267
entry in, of desertion ... 317
entry in, when a seaman is discharged ... 340
shipped ... 291, 301
penalty when not provided with ... 298
transmission of, by collector ... 300
when required ... 254, 258

Crime,
in China ... 494
(See China, Treaty, Turkey, &c.)

Criminal jurisprudence,
in China ... 508
(See China, Consul, Exterritoriality.)

Criminals,
disbursements incurred for ... 226, 234
shipment of ... 400
transportation of ... 195
(See Consul, Consular officer.)

Cuba,
molasses from ... 672
Spanish vessels from ... 646, 648

Currency,
certificate of ... 172, 180—183, 679
depreciated ... 180, 675
report to be made ... 161

Cushing, C. (Attorney General.)
opinion of, on consular marriages ... 572—621
on the judicial authority of the commissioner or minister, and of consuls in China and Turkey ... 456—467, 485—571
on depositing ship's papers ... 252, 255
on discharge of seamen, sale of vessel, and transportation of seamen ... 278—281, 288, 289
on estates of intestates ... 361—377
respecting exterritorial and other privileges of consular officers ... 1—5, 444—447, 488, 494, 495, 689, 690, 693, 697

Custom duties
in China ... 589

Death
of American citizens to be reported ... 157
(See Consul, Intestate.)

Debts
of deceased Americans, when payment is to be made ... 350, 351
in Tunis ... 738

Decedent,
estate of a, in Morocco ... 434
Muscat ... 436
Tripoli ... 430

Section.

Decedent, (continued.)
conflicting claims to estates of a..... 371
(See Consul, Intestate.)
Deck
of passenger vessels..... 397
Decrees and regulations,
in China..... 504
to be laid before Congress..... 506
(See Consul, China.)
Delivery
of ships' papers..... 247
(See Arrival, Deposit.)
Demeanor,
personal..... 381
Denmark,
vessels of..... 641
Department of State,
commercial regulations to be reported to 147, 148
fees to be reported to..... 127
Deposit
of ships' papers..... 246—258
Depositions,
consuls authorized to take..... 383
Deputy consul,
compensation of..... 111
defined..... 2, 35
mode of appointment..... 37
recognition of, by local authorities..... 38
when to be appointed..... 36
(See Consul, Consular officer, Seamen.)
Deserter,
apprehension of..... 320, 316
to be examined..... 319
to be noted..... 267, 317
to be reclaimed..... 11
Desertion,
defined..... 318
when excusable..... 321
Despatch book,
described..... 139
Despatches,
annual return of..... 100
how folded and sealed..... 96
not to be antedated..... 97
paragraphs of..... 94
style of..... 86
to be analyzed..... 94
to be dated and numbered..... 88
to be endorsed..... 93
Diplomatic functions,
instructions in respect to the exercise of, by consular officers..... 18, 110, 688
Disbursements,
miscellaneous..... 197, 198, 199, 201, 202
on account of criminals..... 226—234
(See Consul, Seamen, &c.)
Discharge,
entry to be made of..... 220
of seamen..... 265
after a survey..... 274
reasonable cause required for..... 305
when entitled to..... 269—271
(See Seamen, Vessels.)
Discriminating duty,
defined..... 660
vessels subject to..... 646
when not refunded..... 659
(See Vessel, Tonnage.)
Disputes,
in Tunis..... 433
in Turkey..... 447
District attorney
to certify consular bonds..... 70

Section.

Dollars,
fees to be collected in American or Spanish silver, or their equivalent..... 701
value of..... 674
Domicil,
marriage, and other contracts, as affected by..... 596, 599, 612
(See Marriage.)
Draft,
for criminal expenses..... 228
for seaman's passage..... 228
for salary..... 245
how and when to be drawn..... 203, 204, 220
in what currency..... 200, 700, 701
of vice commercial agent..... 225
of vice consul..... 225
on Secretary of the Treasury..... 244, 245
on whom to be drawn..... 199
when and how to be made..... 228, 245
(See Consul, &c.)
Duties
of consular pupils..... 16
of consuls..... 8—21
(See Consul, &c.)
Duty,
tonnage and discriminating, what vessels subject to..... 649—662

Ecuador,
vessels of..... 641
Effects,
signification of..... 351
(See Intestate.)
Emigrants,
marriages of..... 618
(See Marriage.)
Enclosures,
instructions respecting..... 88—93
to be endorsed..... 93
to be numbered..... 90, 93
Endorsements,
required..... 93
England,
decedents' property in..... 375
ecclesiastical law in..... 612
Entry,
articles entitled to free..... 622
of vessels..... 251
to be made in cases of shipwreck and discharge of seamen..... 301
(See Free entry, Seamen, Vessels.)
Evidence,
consular officers to give..... 389—398
Examination
of consular pupils..... 57, 58
of seamen..... 319
Examiners
of consular pupils..... 57
Exchange,
loss in..... 205
rate of..... 162
Exequatur,
how obtained..... 76, 77
privileges accorded by..... 78
Expenses,
information concerning..... 167
for criminals..... 227, 228
miscellaneous..... 193, 197, 198, 201, 202
(See Draft.)
Extended protest book
described..... 140
Exterritorial privileges
in Pagan or Mohammedan countries.... 690, 693

Section.

Exterritoriality,
defined 579, 581
exceptions to, in China..... 495
extent of the privilege of..... 582
of Americans in China..... 488, 535, 607
Turkey 446, 508
Barbary and other States.. 509
of British subjects in China 488
of consular officers..... 689, 690, 693, 697
in certain countries 444, 447
not allowed to consuls in Christian countries 583
(See China, Turkey.)

Extra wages,
commission on, forbidden..... 113
disposition of..... 265, 271
payment of, after a survey..... 274, 276
receipts for..... 215
when consular officers are accountable for. 304
required 215
not required..... 270, 271, 304
to be paid..... 269
to be paid to seamen..... 306
(See Consul, Seamen.)

Fee,
for a passport..... 401
permit 628
visa..... 406
other services..... 701

Fee book,
described..... 122, 139, 236
to be kept..... 122, 135
transcript of..... 156, 236
to be furnished 124

Fees,
application of..... 244
penalty for collecting unlawful..... 128
penalty for omission to collect..... 130
in what currency collected..... 700
official 701
receipts for, to be numbered..... 121
record of, to be kept..... 122
repeal of acts relating to..... 116
required to be collected..... 119
returns of, to be made..... 127
tariff of, to be posted 136
to be accounted for..... 122
unlawful, to be refunded..... 129

Fifth Auditor,
accounts for relief of seamen adjusted by.. 196
to be sent to..... 210
report of seamen relieved and discharged to be made to..... 299
(See Account, Consul, Seamen.)

Flag,
how furnished..... 198
not to be struck without permission..... 7
when to be displayed..... 82

Florida,
treaty respecting..... 541

Florin,
value of..... 674
of Austria..... 678

Foreign governments,
how to be addressed 19
in courts of United States..... 562, 567

Forfeiture,
of foreign-built vessels..... 639

Form,
No. 1..... 69 No. 6..... 93
No. 2..... 70 No. 7..... 96
No. 3..... 79 No. 8..... 139, 235
No. 4..... 86 No. 9..... 139, 235
No. 5..... 93 No. 10..... 139

Section.

Form, (continued)
No. 11..... 139, 145 No. 31..... 218
No. 12..... 139, 145 No. 32..... 220
No. 13..... 139 No. 33..... 242
No. 14..... 139, 140 No. 34..... 242
No. 15..... 140, 208 No. 35..... 242
No. 16..... 140, 158, 299 No. 36..... 242
No. 17..... 140 No. 37..... 256
No. 18..... 140 No. 38..... 257
No. 19..... 140 No. 39..... 258
No. 20..... 140 No. 40..... 286
No. 21..... 157 No. 41..... 301
No. 22..... 174 No. 42..... 302
No. 23..... 174 No. 43..... 317
No 24..... 182 No. 46..... 407
No. 25..... 205 No. 47..... 408
No. 26..... 210 No. 52..... 625
No. 27..... 210 No. 53..... 625
No. 28..... 221 No. 54..... 625
No. 29..... 215 No. 55..... 625
No. 30..... 216 No. 56..... 636
(See Index to Forms.)

Forms,
attention to .....
to be observed..... 243
transmission of..... 102

Formula,
as to freight 323

France,
consular convention with..... 389
law of marriage in..... 601, 602
vessels of..... 644

Franks,
usages of, in Turkey..... 459, 461, 463

Free entry,
articles entitled to..... 622
indirect shipments not entitled to..... 630
what officers are entitled to..... 680

Free goods,
invoices of..... 180, 181

Genoa,
vessels of..... 641

Gentoo,
defined 537

Germany,
consular duties in..... 688
(See Consul, &c., Marriage.)

Great Britain,
commercial regulations of..... 643

Greece,
vessels of..... 641

Guadaloupe,
vessels from..... 644
French vessels from 654

Guatemala,
vessels of..... 641

Guilder,
value of..... 674
vessels of 644

Hakodade,
vessels of United States at..... 643

Hanover,
vessels of 641

Hanseatic Towns,
vessels of..... 641

Hawaiian Islands,
treaty with..... 611
vessels of 644

Hayti,
vessels of..... 646

Homicide,
in Morocco..... 493

Section.

Homocide, (continued.)
in Tripoli ... 429
Tunis ... 434
Hudson's Bay Territory,
not embraced in the reciprocity treaty ... 631
Index
to be kept ... 141
Injunctions,
respecting decedents' estates ... 361
(See Intestate.)
Inspectors,
appointment of ... 272
duty of ... 273, 281
when to be appointed ... 280
Institutes and Pandects,
the foundation of the jurisprudence of christendom ... 698
Insubordination,
defined ... 310
local police to repress ... 309
to be discountenanced ... 11, 311
Intercourse,
official, in Africa ... 438
International law,
of christendom ... 488
origin of ... 693—695
private, defined ... 573
as affecting consuls ... 5
Intestate,
consular duties in respect of an ... 11
estate of ... 343—377
(See Consul, Decedent.)
Inventory,
in case of wrecks ... 335
of archives ... 79
Invoice book
required ... 139
to be kept ... 121
Invoice,
additional duty for undervaluing ... 629
affidavits to ... 625
certificate of the value of ... 172
currency certificate to ... 675
due entry of ... 527
fraudulent ... 186—189
how verified when there is no United States consul ... 176
of free goods ... 180, 181
oaths to ... 174
shipments by different vessels ... 632
statement of, to be sent to the Secretary of the Treasury ... 134
when sworn to before magistrates ... 175
where verified ... 173

Japan.
commerce with ... 643
Jefferson, Thomas,
rule of, touching seamen ... 333
Journal
required ... 140
Jurisdiction,
cases of original ... 598
extent of national ... 387
exterritorial, in China ... 555
local ... 442—446
of consuls in ports ... 386
of consular courts ... 549—561
of courts of United States ... 388, 562—567
of state courts ... 388
territorial ... 388
(See China, Exterritoriality, Turkey, &c.)

Section.

Law,
different codes of, within the same nation ... 536
in British colonies ... 538
in British India ... 537
in the United States ... 539
of nations ... 576, 577, 693, 694, 695
personal and local ... 613
territorial force of ... 539
(See International law.)
Legation,
notice to be sent to ... 81
Les Petites Oies,
French vessels from ... 656
Letter book
required ... 139
Letters
to be filed and bound ... 142
Levant,
consuls in the ... 591, 593
Lira,
value of ... 579
Livre,
value of ... 674
Louisiana,
rights ceded to citizens of ... 540
Lubec,
vessels of ... 644

Magistrates,
certificates of, to be verified ... 175
Mohammedans,
state of society among ... 488
(See Exterritoriality.)
Malabar,
coffee from ... 671
Manufacturers,
oaths to invoices by ... 178
Marc,
value of ... 674
Marriage,
a civil contract ... 615
effect of double alienage upon ... 594
of domicil ... 596, 599
exceptions to the general rule of ... 589
how to be celebrated ... 590
impediments to consular ... 604, 605
in countries Christian, or otherwise ... 615, 616
in the Netherlands ... 603
in Scotland ... 593
in Spain ... 603
law of, in France ... 601, 602
solemnization of, by consuls ... 572
Marriage contracts,
consular certificates to ... 617
Marshall, H.,
suggestions of ... 571
Martinique,
vessels from ... 644
French vessels from ... 654
Mecklenburg Schwerin,
vessels of ... 641
Merchandise,
prices of ... 160
Milrea,
value of ... 674
Minor heir,
consular officer may intervene in case of ... 366
Miquelon,
French vessels from ... 654
vessels from ... 644

Section.

Miscellaneous expenses,
instructions as to..... 193, 197, 198, 201, 202
record book..... 139
(See Account.)

Missouri,
civil law in..... 542

Molasses, or melado,
duty on..... 672

Morocco,
consular residence in..... 425
estate of decedent in..... 434
treaty with..... 422, 466
vessels of..... 642

Municipal law,
limitation of..... 545

Muscat,
exterritorial privileges in..... 609
treaty with..... 436, 466
vessels of..... 642

Mutineers
to be sent to United States..... 313, 314

Mutiny,
duty of consular officers in case of..... 313

Naturalization,
certificate of, when required..... 73

Navy officers,
consular intercourse with..... 417—419

Netherlands,
coffee from..... 667
consuls in..... 667
marriage in..... 603
vessels of..... 641

Newfoundland,
French vessels from..... 655

New Granada,
vessels of..... 641

New Mexico,
treaty respecting..... 541

Newspapers,
consuls not to correspond with, touching public affairs..... 16, 17

Non-intervention
to be observed..... 441

Norway,
vessels of..... 641

Notary,
compensation for performing services of... 389

Nova Scotia,
currency of..... 676

Oath,
by whom administered..... 125, 237
fee for..... 701
transcript of fee book to be certified by..... 237
transcript of fee book to be furnished under 194

Oaths,
consular officers authorized to administer.. 383
mode of administering..... 177
to invoices, by whom taken..... 174

Offences,
at sea and in port..... 384—388

Offenders,
where punished..... 384

Office,
consular officers not allowed to accept, from foreign governments, or recommend friends for..... 17
expenses of..... 198
furniture, no allowance for..... 201
hours..... 85

Section.

Office, (continued.)
location of..... 85
rent of..... 197
when allowed..... 201

Officers,
exercising jurisdiction in China..... 497
(see China)

Oldenburg,
vessels of..... 641

Ottoman Porte,
equivocal language of the treaty with..... 436
treaty with, explained..... 466
(See China, Porte, Turkey.)

Ounce,
value of..... 674

Outfit,
not allowed..... 113

Pagoda,
value of..... 674

Passage,
allowance by Comptroller for destitute seamen..... 294
of destitute seamen..... 216, 283, 295
of prisoners..... 238—239
compensation for..... 217
in foreign vessels..... 217
money for, how paid..... 284
when paid..... 216, 217 285,
(see Seamen.)

Passenger act,
instructions in regard to..... 383—388
violation of..... 388

Passenger seamen,
limitation of number of..... 285

Passengers,
space allowed for..... 384

Passport book,
described..... 139

Passport,
described..... 407
fee for..... 401, 701
for families..... 411
for naturalized citizens..... 410
injunctions respecting..... 412
issue of..... 401, 402, 404, 405
penalty for fraudulent..... 401, 413,
record of, to be kept..... 124
requisites for..... 409
return of..... 401, 405, 408
visa of..... 406
when gratis..... 403
when sent..... 73

Paupers,
shipment of..... 400

Penalty,
for forgery..... 383
for fraudulent certificate..... 414
for fraudulent passport..... 401, 413
for non-delivery of ship's papers..... 246
for not accounting for seamen..... 259
for perjury..... 383
incurred by shipmasters..... 138
incurred by passenger ships..... 284
incurred by shipmasters for refusal to pay fees..... 293

Perjury,
evidence of..... 159
penalty for..... 238, 383, 126

Permit,
fee for..... 698

Physician,
certificate of, when required..... 241

Section.

Piracy,
duty of consular officers in case of..... 315

Politics,
consuls not to engage in foreign..... 16

Porto Rico,
molasses from..... 672
Spanish vessels from..... 646, 648

Portugal,
vessels of..... 642, 644
subjects in China..... 488

Postage,
vouchers for, not required..... 199
when allowed..... 198
drafts for..... 199

Pound,
value of..... 674

Presents,
consular officers not to receive, from foreign governments..... 17

President,
absence permitted by the..... 84
authorized to appoint consular pupils..... 56
authorized to grant leave of absence..... 378
authorized to prescribe consular fees..... 118
compensation of consular officers appointed by the..... 104
deserving pupils to be recommended for promotion to the..... 65
power of, touching the prohibition as to trade and business..... 34
rescue of seamen or citizens, to be reported to..... 340
(see Absence, Consular pupil, Wreck, &c.)

Press,
how furnished..... 198
correspondence with the, restricted..... 16

Prices current,
to be sent..... 159, 160

Prince Rupert's Land,
not referred to in the reciprocity treaty.... 631

Printed enclosures,
two copies to be sent..... 92

Prisoner,
disbursements for a..... 296, 297
drafts on account of a..... 298
transportation of..... 299—233
when sent to U. S. for trial..... 315

Privileges,
of consuls..... 587, 666
(See China, Consul, Exterritoriality.)

Property,
disposition of decedents'..... 351—359
disposition of real..... 364
disposition of personal..... 365
inventory of..... 346, 347, 348
of intestates, surrender of..... 359
sale of perishable..... 345, 358
(See Intestate, &c.)

Protection,
consular, in Morocco..... 422
Muscat..... 426
Tripoli..... 426
Tunis..... 433
diplomatic and consular..... 446
in Turkey..... 450—452
of aliens in Turkey..... 450—453
(See China, Consul, Consular officer, Exterritoriality.)

Protest book
described..... 140

Protest,
consul's duty to receive..... 11
fee for..... 701

Section.

Prussia,
vessels of..... 641

Public money,
disposition of..... 80

Punishment
in China..... 509—513
(See China, Turkey.)

Quarterly commercial report,
information required in..... 155
(See Commerce, Report.)

Real,
value of..... 674

Receipts,
copies of consular, to be sent to the Secretary of the Treasury..... 134
to be furnished collectors..... 133
to be given for fees..... 120
to be numbered..... 121
to be witnessed..... 219
(See Vouchers.)

Reciprocity treaty,
with Great Britain..... 632
(See Free entry.)

Record book,
described..... 139
how furnished..... 198

Recording,
fee for..... 701

Register,
described..... 139, 140

Relief,
account to be kept of sums expended for... 300
kind of..... 296
of seamen,..... 295—301, 304, 338
what seamen are entitled to..... 308
(See Seamen.)

Relief book
described..... 140

Relief report
described..... 158

Religion,
the sign of public law..... 697

Report,
commercial, required at inland consulates. 156
seaport consulates 155
character of annual..... 153
of commercial..... 152
of death of American citizens..... 344
of passports issued..... 408
of persons protected..... 403
of rescue of seamen or citizens to be made. 340
of seamen relieved and discharged..... 299
of wrecks..... 337
on currency required..... 161
on trade to Secretary of the Treasury.. 163—169
respecting consular pupils..... 62
subordinates..... 62
to the Secretary of State..... 158—158
to the Secretary of the Treasury..... 159—170
(See Consul, Consular officer, &c.)

Returns,
mode of transmitting..... 99
when to be transmitted..... 97, 98, 100
(See Report.)

Revenue,
care for, by consular officers..... 190
frauds upon, to be checked..... 15
laws respecting to be observed..... 479

Ricker, S.,
references to despatches of..... pp. 250, 279

Section.

Ruble,
value of ... 674

Rupee,
value of ... 674

Russia,
hemp of ... 642
vessels of ... 641

Salary,
accounts for ... 194
drafts for ... 245
settlement of ... 244

Sale,
of perishable property ... 346, 352
proceeds of ... 353
publication of ... 352
remittance of proceeds of ... 354
of wrecked property ... 336
(See Intestate, Wreck.)

Salutes
to consular officers ... 490

San Salvador,
vessels of ... 641

Santa Cruz,
Danish vessels from ... 652

Sardinia,
vessels of ... 641

Schedule B,
compensation of officers named in ... 104

Schedule C,
compensation of officers named in ... 104

Scotland,
marriage in ... 503

Sea,
offences committed at ... 384
(See Seamen, Jurisdiction.)

Seal,
how furnished ... 198
on the effects of decedents ... 360

Seamen,
absence, when excusable ... 318
accounts for the relief of ... 196
bond for the return of ... 681
certificate of refusal to take ... 287
clothing for ... 211
complaints against ... 308
complaints of ... 331
desertion of ... 267, 316, 321
discharge of ... 11, 213, 265, 685
examination of ... 298, 319
expenses incurred by ... 304
fee for discharging or shipping ... 701
list of discharged and relieved, to be kept ... 299
passage of destitute ... 216, 283
passage of, in foreign vessels ... 217
no expenses allowed for defence of ... 234
penalty for not accounting for ... 259
reasonable cause required for the discharge of ... 305
relief of ... 11, 206, 207, 211, 214, 295—301, 332
relief of, to be reported ... 150
rescue of, from shipwreck to be reported ... 340
settlement of accounts for relief of ... 212
shipment of, to intermediate ports ... 222, 307
wages of, when forfeited ... 287
wages of, when not due ... 278
wages of, when payable ... 322, 324, 325, 327, 328, 330
what seamen to be relieved ... 256
when not entitled to a discharge ... 275
when shipmasters are not required to take destitute ... 288
when to receive extra wages ... 306, 307
(See Consul.)

Section.

Seamen's accounts,
settlement of ... 268

Seamen's fund,
to be accounted for ... 286
economy enjoined in regard to ... 219, 283

Seamen's passage,
allowance by comptroller ... 294

Seamen's register
described ... 140

Seamen's relief book
described ... 140

Secretary of State,
authorized to issue passports ... 401
reports to be made to ... 152—158
(See Consul, Passport, Report, &c.)

Secretary of the Treasury,
instructions of, to be observed ... 199—170, 416
fees to be accounted to ... 123
salaries adjusted by ... 194
(See Account, Consul, Draft, Report.)

Seeds
to be transmitted ... 14

Shipmasters,
bond to be given by ... 280, 281
consular fees to be paid by ... 283
duties of, touching consular receipts ... 133
consular services ... 131
limitation of their power ... 310
papers to be deposited on arrival by ... 245
penalty incurred by, for refusing to pay fees 283
penalty incurred by, for refusing to take destitute seamen ... 286
penalty incurred when not provided with crew-list and shipping articles ... 282
tonnage duty, when incurred by ... 282
transportation of seamen by ... 283
when not required to take destitute seamen 288
(See Seamen, Consul.)

Shipments,
indirect ... 630

Ship-owners,
consular receipts to be furnished by ... 133

Ships' papers,
delivery of ... 246, 247, 257
fee for receiving and delivering ... 701
when to be retained ... 135, 244, 248, 253
where to be kept ... 257

Shipwreck,
disposition of papers saved from ... 342
rescue of seamen or citizens from, to be reported ... 342
(See Wreck.)

Shipping articles,
alterations in ... 263
copy of, required ... 262
entry in, when a seamen is discharged ... 299, 301, 330
penalty when not provided with ... 282
when to be laid before consul ... 264

Siam,
treaty with ... 509

Simoda,
vessels of United States at ... 643

Sovereignty
of states ... 575

Space
to be occupied by passengers ... 394—396

Spain,
law of, respecting decedents' property ... 374
marriage in ... 603
vessels of ... 646

Section.

States,
sovereignty of..... 575
Statute,
personal and real..... 578
Statutes,
application of, to consular officers..... 3
respecting decedents' estates, limitation of. 370
Stowell,
quoted..... 613
St. Bartholomew,
Swedish vessels from..... 653
St. Domingo,
Dominican vessels from..... 661
St. Lawrence,
shipments of merchandise by..... 633
St. Pierre,
French vessels from..... 654
vessels from..... 645
St. Thomas,
Danish vessels from..... 652
Sub-agents,
not to be appointed..... 54
Supreme Court,
opinion of, as to arrival..... 250
(See Arrival.)
Survey,
payment of charges for..... 278
when to be ordered..... 272
(See Seamen.)
Sweden,
chartered companies in..... 336
currency of..... 677
vessels of..... 641

Tael,
value of..... 674
Tariff,
to be annexed to clearances..... 137
to be posted..... 136
Tea and coffee,
duties on..... 663—671
in Prussian or Hanseatic vessels..... 668
(See Duty, Coffee.)
Testimony,
duty of consular officers respecting.... 389—392
how to be given by consular officers..... 389
of consular officers in court..... 391
refusal to give..... 392
Three months' pay,
when required..... 390
(See Seamen.)
Tonnage duty,
instructions respecting..... 642—646
American vessels, when subject to. 683, 684, 685
on foreign vessels from prohibited ports..... 657
what vessels subject to..... 640
when exacted..... 302
unregistered American vessels subject to... 682
(See Vessels.)
Trade,
suggestions in regard to..... 14
report on..... 163
usages of..... 164
consular officers of the first class forbidden to..... 29
(See Commerce, Consul, Report.)
Translation,
of vouchers..... 199
Transportation,
of merchandise..... 168
of prisoners..... 229—232 313—315

Section.

Treasury,
consular receipts to be sent to..... 134
(See Consul, Draft, Report, Secretary.)
Treaty,
construction of, with the Porte..... 467
respecting ceded territories..... 541, 542
stipulations of, to be observed..... 474, 475
stipulations of, with China..... 568—571
tenor of, in regard to suits at law..... 554
to be observed..... 13
with Algiers..... 463, 464
China..... 468, 486
Hawaiian Islands..... 611
Mohammedan governments..... 609
Morocco..... 492, 465
Muscat..... 436, 466
Ottoman Porte..... 456, 461
Tripoli..... 465
Tunis..... 431, 465
Turkey..... 446
(See Consul, China, Turkey.)
Trial,
in Tunis..... 435
of American seamen..... 234
Tripoli,
treaty with..... 496, 465
disputes in..... 437, 438
Tunis,
treaty with..... 431, 465
decedent's estate in..... 438
Turkey,
commerce with..... 454
exterritoriality of Americans in..... 606
citizens of U. S. in..... 459
judicial authority in..... 456, 462
officers exercising judicial powers in... 455, 497
pashalics of..... 687
pupils in, to be examined..... 63, 64
treaty with..... 446, 456, 467
(See Consul, Exterritoriality.)
Two Sicilies,
vessels of..... 644

Undervaluation,
additional duty for..... 699
to be checked..... 186—189
(See Invoice.)
United States,
authority of foreign consuls in, touching decedent's property..... 376, 377
suits of foreign governments in courts of.. 562—567
Urquhart,
remark of..... 486
Uruguay,
vessels of..... 642
Utrecht,
treaty of..... 373

Vessel,
bill of sale of, to be recorded..... 636
bonds required from Spanish..... 650
cargoes of Spanish..... 649
disabilities of foreign-built..... 638
exemption of Spanish vessels from tonnage duty..... 648
foreign-built..... 634
mode of measurement..... 395
of Austria and other countries..... 641
641, 644, 645, 646
passage of seamen in foreign..... 217
papers of, to be received..... 11
papers of, when to be retained..... 248, 253
sale or wreck of..... 201, 279, 282

Section.

Vessel, (continued.)
survey of, when to be ordered 272
unregistered 683
unseaworthiness of 280
when entitled to protection 635
when forfeited 639
what constitutes an arrival of 250
when sold 265
when subject to tonnage duty 683, 684, 685
wrecked or stranded 270

Vessel of war,
presence of 481

Vice commercial agent,
draft of 285
defined 41
when appointed 41
forbidden to appoint sub-agents 54

Vice consul,
appointment of 534
compensation of 111
defined 2, 41
draft of 285
in Turkey 449
judicial powers of, in China ..... 531—534
when appointed 41

Visa,
by whom given 486
fee for 486, 701
(See Passport.)

Visit,
exchange of, between consular and navy officers ..... 417—419

Vouchers,
character of 210
required 199, 209, 300
to be verified by seamen 212

Section

Wages,
commission on, forbidden 113
how to be calculated 389
of seamen as affected by act of 1840 276
proportional 330
ship's papers to be retained till payment of 135, 294
when extra, are not required 270
when extra, to be paid 265, 271
when forfeited 267, 318
when lost 386
when not forfeited 338
when payable ..... 322, 324—330
when required, and disposition of 215
when seamen are entitled to extra 276
(See Seamen.)

Webster, Daniel,
rule of, touching seamen 338

Will,
of decedents 360
safe-keeping of 368
to be valid must be proved 361
(See Decedent.)

Witnesses
to be sent in criminal cases 315

Wood,
dutiable articles of 694

Wreck,
disposition of 338
duties of consular officers in relation to 334—342
legal proceedings in case of 339
owner's interest to be protected 336
reports to be made of 337

II. ACTS OF CONGRESS RELATING TO CONSULAR OFFICERS.

Page.

Absence,
provisions relating to 325

Action,
for the recovery of the penalty of a bond 317

Acts of Congress,
construction of, affecting consuls 335

Alien consuls,
no compensation allowed to 327

Appeal
from consular decisions in China 340

Arbitration
in China 344

Arms,
how to be provided 327

Arrears,
interest upon 304

Arrival,
duty of shipmasters after 290

Assessors,
appointment of, in China 341

Boarding officer,
duty of 307

Bond,
conditions of consular 317, 321
new, when required 317, 320
penal, sum of 322
required 320

Page.

Bond, (continued.)
to be approved by the Secretary of State 306
to be deposited with the Secretary of the Treasury 300
to be given by consular officers 294

Business,
what kinds of, certain consular officers forbidden to engage in 317

Cargo,
information required respecting 332

Capital offences
in China 342
trial for 343

Captain,
protest or declaration made by 293
refusal of, to take seamen 298

Certificate,
penalty for the issue of false 298

Chargé d'affaires,
pay of secretaries acting as 319

China,
act to carry treaty with, into effect 337
compensation of secretary of legation in 309, 310
responsibility of consular and diplomatic officers in 345

Citizen of United States,
protest or declaration by 292

Page.

Clearance,
requisites for..... 295
tariff of fees to be annexed to..... 323

Clerk,
in charge of statistics..... 309
salary of assistant..... 309

Collector,
copy of crew list to be furnished by..... 295
papers of foreign vessels to be exhibited to. 289
proof of discharge of seamen to be exhibited to..... 295
to annex tariff of fees to clearance..... 323
to send consular receipts to the Secretary of the Treasury..... 395
statement of certified invoices to be furnished by..... 395
violations of law to be reported by..... 397
wages of deserters to be paid to..... 331

Commercial agents,
compensation of, in—
Liberia..... 316
Nicaragua..... 314
Portugal..... 316
Russia..... 316
St. Domingo..... 314,316

Commercial information
to be communicated by consular officers... 398

Commercial regulations
to be reported to Congress..... 308

Compensation
of officers not embraced in schedules B and C..... 316
(See Consul, Commercial Agent.)

Commercial report
to be made to Congress..... 398

Commission,
prohibition respecting..... 398

Commissioner,
appeal to, in China..... 340
defined..... 345
jurisdiction of, in China..... 342
regulations to be made by..... 338,339

Common law
in China..... 338

Compensation,
commencement and time of receiving..... 318
termination of, during absence..... 325
in case of discharging duties of two offices. 319
of consular officer when discharging diplomatic duties..... 319
of diplomatic agents..... 309
of diplomatic agents in—
Austria..... 309
Brazil..... 309
China..... 309
France..... 309
Great Britain..... 309
Mexico..... 309
Prussia..... 309
Russia..... 309
Spain..... 309
of diplomatic agents in all other countries. 309
of assistant secretaries of legation..... 309
of consular officers..... 310
(See Consuls.)
not allowed to alien consuls..... 327
of subordinate consular officers..... 321
to be in full for official services..... 326
when not allowed..... 319

Comptroller,
equitable allowance for passage of seamen to be made by..... 299

Congress,
commercial regulations to be laid before... 307
commercial report to be made to..... 398

Page.

Congress, (continued.)
fees to be reported to..... 323
judicial regulations to be reported to..... 323
names of consular officers to be reported to. 323

Consul,
defined..... 335,345
required to give bond..... 294
verification of invoices by..... 301
(See Consular officers.)

Consul general,
compensation of,
in British India..... 311
in British North America..... 310
in Cuba..... 311
in Egypt..... 311
in the Hanseatic and Free Cities..... 311
in Japan..... 311
in Turkey..... 311
defined..... 335
prohibitions in regard to business applicable to every..... 317

Consular act,
when to take effect..... 337

Consular agent,
appointment and compensation of..... 321
defined..... 335

Consular certificate,
when to be received in courts of law..... 292

Consular officers,
accountable for extra wages..... 332
appointment of..... 310
appointment of sub..... 321
authorized to perform notarial acts..... 329
classes of..... 310
commercial information to be sent by... 308,398
compensation of..... 310
compensation of, when performing diplomatic duties..... 319
defined..... 335
duties of, in China..... 339,345
in schedule B, prohibited from engaging in business..... 317
jurisdiction of, in China..... 338
liability of, for fees..... 294
names of, to be reported to Congress..... 333
names of remiss, to be reported to Congress. 308
penalty incurred by, for issue of false certificate..... 308
penalty incurred by, for neglect of duty..308,336
respecting complaints of seamen..... 306
respecting desertion of seamen..... 306
respecting discharge of seamen..... 305
respecting intestates..... 333
respecting decedents..... 333
to be reimbursed for the payment of foreign postage..... 308
prohibitions respecting..... 326
to be reimbursed for relief of seamen..... 298
to provide for destitute seamen..... 297
to take charge of intestates' estates..... 299
reports to be made by, to the Secretary of the Treasury..... 333
when ship's papers may be retained by..... 333
when forbidden to take possession of wrecked property..... 295
when permitted to exercise diplomatic functions..... 300

Consular powers,
nature of..... 294

Consular pupils,
compensation of..... 318
examination of..... 318
number of..... 318
President authorized to appoint..... 318
to be citizens of United States..... 318

Page.

Consular regulations
to be prescribed by the President..... 327
Consular seals,
when to be affixed and removed..... 324
Consulates,
limits of, to be defined..... 321
Consuls,
their compensation in—
Austria 312, 326
Barbary States..... 313
Bavaria 312, 313
Belgium 312
Brazil..... 313, 315
Buenos Ayres..... 314
Chili 312, 315
China 312
Denmark,..... 312, 315
Ecuador..... 315
Feejee Islands..... 326
France 311
Great Britain..... 311, 314
Greece..... 315
Hanseatic and Free Cities..... 313
Honduras 315
Mexico 313, 315
Muscat..... 315
Navigator's Islands..... 316
New Grenada..... 314, 315
Nicaragua 314
Peru..... 312, 315
Portugal 312, 315
Prussia..... 312, 315
Russia 312
Sandwich Islands..... 314
Sardinia..... 315
Society Islands..... 316
Spain..... 322
St. Domingo..... 316
Switzerland..... 313
The Two Sicilies..... 313
Turkey 312, 314
Uruguay 316
Venezuela 314
Wurtemburg 313
Correspondence,
prohibitions relating to 326
Crew,
discharge of..... 305
protests or declarations made by..... 292
Crew list,
described..... 295
desertion of mariners to be noted on..... 330
duplicate of, to be a fair copy..... 302
entry of shipment or discharge of seamen on 296, 303, 306
fee for copy of..... 295
to be delivered to collector..... 295
when to be exhibited to a consular officer . 303
Crimes
in China, how punishable..... 337
Debts
of intestates to be collected and paid..... 293
Death
of an American citizen to be published.... 293
Decedents,
duty of consular officers respecting..... 334
Declaration
to be received by consular officers..... 292
Decrees,
by whom made in China..... 339
Deputy consul,
appointment and compensation of 321
defined..... 325
Deserters
to be reclaimed..... 304

Page.

Desertion,
of seamen 306
provisions respecting 330
Diplomatic agents,
pay of..... 320
titles of 320
Diplomatic officer,
defined 325
Discharge
of a crew after survey..... 295
of seamen..... 331
Draft,
penalty for refusal to pay..... 336
Dragoman,
compensation of, in Turkey..... 320
Evidence,
how to be taken in China..... 342
what to be admitted 339
Execution
of offenders in China 343
Extra wages,
application of..... 329
consular officers accountable for 330
when to be remitted 328
(See Three months' wages, One month's wages.)
Fee,
for copy of crew list..... 295
for passports..... 295
Fee book,
to be kept..... 324
Fees,
authorized, only to be collected..... 322
disposition of..... 322
for judicial services..... 343
in what coin payable..... 334
to be prescribed by the President..... 322
penalty for omission to collect..... 324
receipts to be given for..... 322
returns to be made of..... 323
subject to draft..... 323
to be accounted for..... 343
to be registered..... 324
to be reported to Congress..... 323
to be returned under oath..... 325
unlawful, prohibited..... 323
unlawful, to be refunded..... 323
what officers are entitled to retain..... 316, 321
Fine,
for false certificate..... 298, 322
for false passport 298
for illegal return..... .....
for malfeasance 335
for neglect of duty..... 336
for corrupt conduct..... 336
shipmaster, when subject to 307
Flag,
furnished to consuls 327
Forgery,
penalty for 330
Foreign consuls,
deposit of ship's papers with..... 300
penalty incurred by..... 300
Foreigner,
what protest or declaration may be made by 292
Imprisonment,
for the issue of false certificate..... 298, 322
penalty of, for malfeasance..... 306, 335
Inspectors,
appointment of..... 324
duty of..... 305
report of 305

Page.

Interpreter,
compensation of, in China 309, 310
compensation of, in Turkey..... ... 309, 310
assignment to duty of..... 318
in China 317

Insubordination
to be discountenanced 304

Intestate,
settlement of estate of..... 293
estate, when to be taken charge of..... 292

Inventory
of deceased citizens 293
of intestates' estates 292
of wrecked property..... 293

Invoices,
penalty for the issue of false certificates... 302
provisions respecting..... 333
statement of certified, to be furnished by collectors..... 325

Invoice
to be verified..... 301

Judicial authority,
officers in China invested with 338

Jurisdiction
of consular officers in China..... 338, 341

Jurisprudence,
system of, in China..... 330

Malfeasance,
effect of, in respect to compensation..... 319
fine for..... 336

Mariners,
list of discharged and shipped, to be kept.. 332

Mediterranean passport
to be deposited with consul..... 296

Merchant,
protests or declaration made by 292

Misdemeanors
in China, how punishable 337

Newspapers,
correspondence with, forbidden..... 326

Notarial acts,
by whom to be performed..... 329
validity of. 329

Notary public,
desertion of a mariner to be noted by..... 331

Oath,
by whom to be administered 325, 329
fees to be returned under 325
to invoices..... 301

Office,
termination of..... 318

Office rent,
to be allowed in certain cases..... 327

Official services,
to be designated by the President..... 332

One month's pay,
disposition of..... 297
when crew are entitled to 305

Outfit,
not allowed 326

Passengers,
protest or declaration made by 292

Passport,
by whom to be issued 329
fee for 328
penalty for the issue of false 298
penalty for the unlawful issue of..... 328, 329
requirements for a..... 329
return of the issue of, to be made 329
provisions respecting..... 328

Page.

Penalty,
application of..... 317
for collecting unlawful fees. 323
for false certificate..... ..... 298, 302
for forgery 330
for perjury 325, 329
for refusal to deposit papers..... 290
for the unlawful issue of a passport. 129, 298, 328
for violating statute provision relating to business..... 317
incurred by consul for neglect of duty.. 306, 336
incurred by shipmasters for refusal to take seamen..... 298
when incurred by foreign vessels..... 290
when incurred by shipmasters..... 307

Perjury,
penalty for..... 325, 329

Postage,
foreign postage to be paid by consular officers..... 307

Postmaster General,
repayment of postage by, to consuls..... 307

Presents,
prohibitions in regard to..... 326

President
authorized to appoint consular pupils..... 318
interpreters..... 317
to assign duties of..... 318
to define the limits of 321
to prohibit consular officers from trading..... 321
provide certain articles at the public expense..... 327
to provide stationery, &c..... 327
to require new bond..... 321
consular regulations to be prescribed by.. 322, 327
may require a new consular bond 317
to designate official services..... 332

Press,
how to be provided..... 327

Prices current
to be furnished by consular officers..... 333

Protest
to be received by consular officers..... 292

Punishment
of offenders in China 342

Receipt,
copy of every consular, to be given to collector 324
described..... ..... 323, 324
each to be numbered..... 324
to be given for fees 322
how to be provided 317

Referees
in China 344

Register
to be deposited with consul 326

Repeal
of certain acts and parts of acts..... 326

Report
of inspectors 305

Resignation,
effect of, in respect to compensation. 319

Salary,
double, not allowed..... 319

Sale
of perishable articles..... 323

Schedule B,
officers embraced in. 310

Schedule C,
officers embraced in 314

Page.

Seal,
how to be provided 327
Sea letter
to be deposited with consul..... 286
Seamen,
allowance for the passage of..... 299
complaints of 303, 306
desertion of 330
discharge of..... 296, 303, 331
discharge of, by consular officers..... 295
forfeiture of wages by 331
illegal shipment of..... 304
information required respecting..... 332
rate of passage of 297
relief of..... 298
to be provided for..... 297
to be returned to United States..... 295
transportation of..... 326
when required to do duty..... 297
when required to pay cost of survey..... 305
Seamen's fund,
when to be accounted for..... 247
Secretary of legation
authorized to act as a notary..... 329
Secretary of State,
authorized to issue passports..... 298
authorized to retain compensation of consuls in certain cases..... 323
commercial regulations to be reported by... 308
fees to be accounted to 322
to reimburse consuls for relief of seamen.. 296
repayment of postage by, to consuls..... 307
required to publish commercial information. 328
Secretary of the Treasury,
nature of the report required by..... 333
Ship,
survey of..... 304
Shipmaster,
bond of..... 295
duty of, in case of desertion..... 338
oath of, to crew list..... 295
penalty for refusal to deposit papers..... 296
penalty incurred for refusal to take seamen. 298
protest or declaration made by..... 292
seamen to be taken by, limited..... 296
when required to pay charges for a survey. 305
when required to take seamen 297
application of, for consular services 333
consular fees to be paid by..... 333
penalty incurred by..... 307
Shipment
of a mariner..... 303
Shipping articles,
certified copy of, to be obtained by shipowners 303
entry of a discharge therein..... 306
entry therein of the discharge of a mariner. 307
when to be exhibited to a consular officer.. 303
Ships' papers,
alterations in..... 303
deposit of..... 276
of foreign vessels to be produced..... 299
with whom to be deposited..... 300
when to be retained..... 333
when to be returned..... 296
Stationery,
how to be provided 327
Statistics,
superintendent of..... 309
Stock,
transfer of..... 299

Page.

Suit,
for collecting unlawful fees 332
corrupt conduct..... 306
illegal delivery of ships' papers..... 300
refusal to deposit ships' papers..... 296
recovery of penalty for the issue of a false certificate 298, 308
false passport..... 298
recovery of the penalty of a bond..... 317
violation of the provisions of the seamen's act of 1840..... 307
Superintendent of statistics,
duty of..... 309
salary of..... 309
Survey,
charges for..... 305
when to be ordered..... 304

Tariff of fees,
to be conspicuously kept..... 322
reported to Congress 323
to be reported to Congress annually..... 321
Three months' pay,
payment and disposition of..... 298
when crew are entitled to..... 305
when not to be exacted 304
when required 304, 331
when a seaman is entitled to..... 306
Trading,
prohibition respecting..... 322
Transcript
of fee book to be furnished..... 325
Treasury,
consular bond to be sent to..... 294
proceeds of intestates' estates to be held by. 293
Trial,
for perjury..... 330
provisions restricting..... 330
of offenders in China..... 340
Turkey,
compensation of the dragoman in..... 309, 310
provisions relating to criminals..... 344
responsibility of consular and diplomatic officers in 345
(See China.)

United States,
laws of, in China 336
transfer of stock of..... 299

Verification
of invoices..... 301
Vessels,
deposit of papers of foreign..... 300
duty of consuls in regard to stranded..... 293
information relative to, required..... 332
Vice consul,
appointment and compensation of..... 321
defined..... 335
required to give bond 294
Vice commercial agent,
appointment and compensation of..... 321
defined..... 335

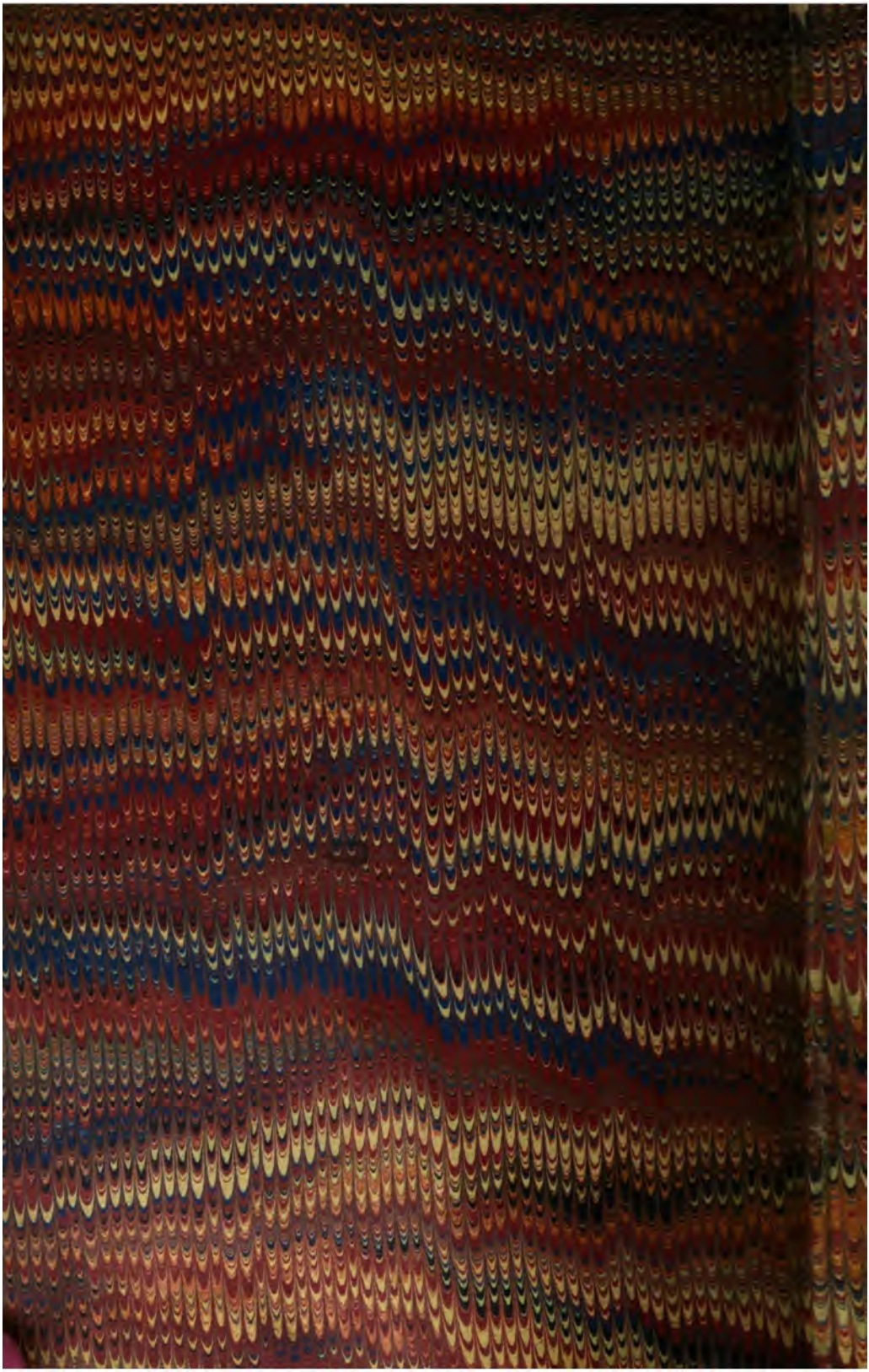
Wages,
forfeiture of..... 331
settlement of..... 331
Wrecked property,
disposition of..... 293
when to be taken possession of..... 293

III. FORMS TO BE OBSERVED BY CONSULAR OFFICERS.

[The Forms commence a new series of paging, distinguished by an asterisk.]

	Page.
Abstract of the names and description of persons to whom passports have been issued	*35
Account current	*14
Account under act of August 18, 1856, for salary and fees, exclusive of seamen's wages, &c.	*24
Account of expenses incurred	*43
Account of sale of a vessel	*54
Acknowledgment to a deed or instrument of writing	*79
Acknowledgment of assignment of bottomry bond	*57
Acknowledgment to bottomry bond	*58
Address of envelopes	*6, 80
Advertisement for funds on bottomry to repair	*49
Agreement of master to give increased wages to seamen	*71
Application of a citizen of the United States for a sea letter	*66
Assignment of bottomry bond	*57
Average bond	*75
Bill of sale of a vessel	*72
Bill of health	*78
Bond to be given by consular officers	*2, *3, *4
Bottomry bond	*56
Certificate to be executed jointly by the outgoing and incoming consular officers	*5
Call of survey on a vessel	*44
Certificate to invoice—foreign owner's oath when goods, wares, or merchandise have been actually purchased	*18
Certificate to invoice—foreign manufacturer or owner's oath in cases where goods, wares, or merchandise have not been actually purchased	*19
Certificate given to masters when required to take to the United States destitute American seamen	*22
Certificate given to masters when required to take to the United States more than two seamen for one hundred tons burden of vessel	*23
Certificate of attending physician	*23
Certificate to accompany each quarterly account	*23
Certificate to accompany consul's first account	*25
Certificate to be used in prosecutions	*26
Certificate given to master on deposit of ship's register or papers	*26
Certificate given to master on delivery of ship's register or other papers	*27
Certificate of discharge of one or more seamen	*29
Certificate of oath and declaration of master to desertion of seamen or mariners	*30
Certificate relating to seamen	*36
Certificate authenticating copies of call, warrant, and report of survey	*38
Certificate to American owners of foreign-built vessels	*41
Certificate authenticating signatures of surveyors	*45
Certificate authenticating signatures of second surveyors	*47
Certificate authenticating signature to estimate	*48
Certificate of sale of a vessel	*49
Certificate to advertisement for funds on bottomry when no proposals have been received	*50
Certificate to advertisement of the sale of a vessel	*51
Certificate authenticating copies of inventories and letters	*53
Certificate authenticating signature of auctioneer	*54
Certificate authenticating copy of account sales	*55
Certificate on cancelling ship's register	*55
Certificate for custom-house or authorities in cases of vessels deviating from the voyage	*60
Certificate given to master when ship's register is retained entire in consulate	*61
Certificate on conduct of crew on board, imprisonment, &c.	*61
Certificate given to a seaman as to the time of his discharge	*62
Certificate to oath of new master	*62
Certificate of ownership of a vessel	*63
Certificate to shipping articles	*64
Certificate of the shipment of seamen or mariners attached to crew list and shipping articles	*70
Certificate of new ownership of a vessel	*67
Charter-party	*76, *77
Consular certificate of the value of currency	*19
Consular passports	*34
Debenture certificate	*64, *65
Decision and award in cases of protest against masters, passengers, or crew	*37
Declaration and oath of master to not being able to procure two-thirds of a crew of protected American seamen	*29
Declaration of master to inventory	*52
Declaration and oath of master to death or loss overboard at sea of a seaman or mariner	*59
Declaration and oath of master or mate to correction of log book	*59
Declaration and oath of master to ship's bills and vouchers for disbursements and repairs	*60
Despatches and enclosures	*5
Detailed list of seamen or mariners shipped, discharged, or deceased	*12
Draft	*79
Endorsement of a despatch	*6
" " enclosure	*6
Endorsement of bottomry on ship's register	*58
Endorsement on register on payment of bottomry bond	*58
Estimate of repairs	*48
Extract from transcript of fee book of those fees not enumerated and contained in return of fees prescribed in Form No. 44	*34
Foreign owner's oath when goods have been actually purchased, &c., in British provinces	*39, *40
Foreign owner's oath when goods have not been actually purchased, &c., in British provinces	*39, *40
Inventory of ship or vessel	*51
Invoice book	*10
Letter to authorities in case of sinking vessels	*38
Letter from master notifying consul of his intention to sell vessel and cargo	*52
Letter of master to auctioneer	*53
Letter requesting the arrest of deserters	*70
List of crew when required by the captain or authorities of the port	*63
Marine note of protest	*15
Marine extended protest	*16
Master's acknowledgment to order to pay seamen's wages or voyages at home	*68
Mode of calculating consular salaries	*42
Mortgage bill of sale of a vessel	*73
Names of persons employed	*1
Names of deceased American citizens, including seamen or mariners, together with the value of the personal effects belonging to them, and taken in possession by or deposited with consul	*18
Oath of consul to accompany transcript of register of fees	*25
Order to pay seamen's wages or voyages at home	*67
Order to send seamen to hospital	*68
Order to imprison seamen or mariners	*69
Order to release seamen or mariners	*69

	Page.
Passport book	*9
Passport visa	*72
Protest of master of a vessel against charters and freighters	*74
Quarterly return of the arrival and departure of American vessels	*11
Quarterly statement of fees received	*32
Receipt for two-thirds extra wages	*22
Record of Treasury fees—seaport consulates	*7
" " " inland consulates	*8
Register of official letters received	*10
" " " sent	*10
Report of survey on a vessel	*45
Return of extra wages	*23
Sea letter	*66
Second call of survey on a vessel	*48
Second warrant to survey a vessel	*46
Second report of survey on a vessel	*47
Ship's daily journal	*17
Statement of cases of relief afforded to destitute American seamen	*13
Voucher as to the difference in the rates of exchange	*20
Voucher for boarding and lodging	*20
Voucher for hospital expenses and medical aid	*21
Voucher for clothing	*21
Voucher for burial expenses	*71
Warrant to survey a vessel	*44
Will	*78



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